

85TH CONGRESS }  
2d Session }

HOUSE OF REPRESENTATIVES

{DOCUMENT  
No. 454

**COMPILATION**  
**OF THE**  
**SOCIAL SECURITY LAWS**

+

**INCLUDING THE SOCIAL SECURITY ACT,  
AS AMENDED, AND RELATED ENACTMENTS  
THROUGH DECEMBER 31, 1958**

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AMERICAN FOUNDATION  
FOR THE BLIND INC.

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**UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1959**

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<sup>1</sup> Died September 9, 1958.



## HOUSE RESOLUTION NO. 693

[Submitted by Mr. MILLS]

IN THE HOUSE OF REPRESENTATIVES,  
*August 22, 1958.*

*Resolved*, That the compilation of social security laws, prepared by the Social Security Administration for the use of the Committee on Ways and Means, be printed as a House document; and that four thousand additional copies be printed of which three thousand shall be for the use of the Committee on Ways and Means, three hundred copies shall be for the use of the Senate Committee on Finance, and seven hundred copies shall be for the use of the House Document Room.

Attest:

RALPH R. ROBERTS,  
*Clerk.*

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## PREFACE

### *Amendments to Social Security Act*

The original Social Security Act was enacted August 14, 1935. Since then it has been amended on a number of occasions. Some of the laws amending the original Act have made rather extensive or significant changes. Among these laws are the Social Security Act Amendments of 1939 (53 Stat. 1360), the Social Security Act Amendments of 1946 (60 Stat. 978), the Social Security Act Amendments of 1950 (64 Stat. 477), the Social Security Amendments of 1954 (68 Stat. 1052), the Social Security Amendments of 1956 (70 Stat. 807), the Social Security Amendments of 1958 (P. L. 85-785, 72 Stat. 938; P. L. 85-786, 72 Stat. 938; P. L. 85-798, 72 Stat. 964; P. L. 85-840, 72 Stat. 1013; P. L. 85-927, 72 Stat. 1778).

### *Administration of Social Security Act*

Administration of the original Social Security Act was largely the responsibility of the Social Security Board. The exceptions to this were parts 1, 2, 3, and 5 of title V which were administered by the Children's Bureau, then in the Department of Labor; part 4 of title V which increased the appropriations authorized for carrying out the Act of June 2, 1920 (now the Vocational Rehabilitation Act); and title VI which authorized grants to the States for public health work.

The Board was transferred to the Federal Security Agency by Reorganization Plan No. 1 of 1939; its functions were thenceforth to be carried on by it under the direction and supervision of the Federal Security Administrator. By Reorganization Plan No. 2 of 1946, the functions of the Social Security Board, as well as the functions of the Children's Bureau (and the Secretary of Labor) under title V of the Social Security Act, were transferred to the Federal Security Administrator, and the Board was abolished.

The Department of Health, Education, and Welfare was created by Reorganization Plan No. 1 of 1953. To it were transferred all functions of the Federal Security Agency, which was abolished. The functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare.

The Bureau of Employment Security, with its unemployment compensation and employment service functions, was transferred from the Federal Security Agency to the Department of Labor by Reorganization Plan No. 2 of 1949.

### *References to Federal Security Administrator*

In the provisions of the Social Security Act amended by the Social Security Amendments of 1954, 1956, and 1958, references to the "Federal Security Administrator" or "Administrator" were changed to the "Secretary of Health, Education, and Welfare" or "Secretary". Section 114 of the 1954 Amendments provides:

SEC. 114. As used in the provisions of the Social Security Act amended by this title, the term "Secretary" means the Secretary of Health, Education, and Welfare.

Section 119 of the 1956 Amendments provides:

SEC. 119. As used in this Act and in the provisions of the Social Security Act set forth in this Act, the term "Secretary" means the Secretary of Health, Education, and Welfare.

Section 702 of P. L. 85-840 similarly provides:

SEC. 702. As used in the provisions of the Social Security Act amended by this Act, the term "Secretary", unless the context otherwise requires, means the Secretary of Health, Education, and Welfare.

This substitution has also been made in this compilation in the other provisions of the Social Security Act, even though the 1954, 1956, and 1958 Amendments have not done so, since Reorganization Plan No. 1 of 1953 has in effect made this change.

#### *References to Internal Revenue Code*

Section 7852 (b) of the Internal Revenue Code of 1954 provides that references in other laws to any provision of the Internal Revenue Code of 1939 shall, "where not otherwise distinctly expressed or manifestly incompatible with the intent thereof," be deemed to refer to the corresponding provision of the new Code. Consequently, references in the Social Security Act to provisions of the Internal Revenue Code of 1939 have been changed accordingly.

#### *Appropriation language*

From time to time, appropriation acts have carried provisions of a substantive nature affecting the Social Security Act. It is, therefore, desirable to refer to the current appropriation act or acts to determine whether any such provision affects the portion of the Social Security Act in which the reader may be interested.

#### *Effect of compilation*

This compilation has been prepared solely for convenient reference purposes. It does not have the effect of law.

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# SOCIAL SECURITY ACT, AS AMENDED

## AN ACT

To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

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#### Appropriation

**Section 1.** For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals and of encouraging each State, as far as practicable under such conditions, to help such individuals attain self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare<sup>1</sup> (hereinafter referred to as the "Secretary") State plans for old-age assistance.

\*This table of contents does not appear in the law.

<sup>1</sup> Formerly the (Federal Security) Administrator. See "Administration of the Social Security Act," under the Preface, p. III.

## State Old-Age Assistance Plans

**Sec. 2. (a)** A State plan for old-age assistance must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for old-age assistance is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) effective July 1, 1941, provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming old-age assistance;<sup>2</sup> (8) effective July 1, 1941, provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of old-age assistance;<sup>3</sup> (9) provide that all individuals wishing to make application for old-age assistance shall have opportunity to do so, and that old-age assistance shall be furnished with reasonable promptness to all eligible individuals; (10) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (11) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of old-age assistance to help them attain self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.<sup>4</sup>

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for old-age assistance under the plan—

<sup>2</sup> See sec. 1109, p. 143, for modification of this clause with respect to the disregarding of earned income of recipients of aid to the blind.

<sup>3</sup> This requirement has in effect been modified by the Revenue Act of 1951, 65 Stat. 452, Sec. 618 of that Act provides:

"No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to title I, IV, X, or XIV of the Social Security Act, as amended, by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes."

<sup>4</sup> Sec. 510 of P. L. 85-840 added the wording in clause (11) beginning with "including" and through the end of the sentence, effective October 1, 1958.



(1) An age requirement of more than sixty-five years, except that the plan may impose, effective until January 1, 1940, an age requirement of as much as seventy years; or

(2) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application; or

(3) Any citizenship requirement which excludes any citizen of the United States.

### Payment to States

**Sec. 3. (a)** From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing October 1, 1958, (1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) four-fifths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$30 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$65 multiplied by the total number of such recipients of old-age assistance for such month; and (2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$35 multiplied by the total number of recipients of old-age assistance for such month; and (3) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care.<sup>6</sup>

<sup>6</sup> Sec. 501 of P. L. 85-840 amended sec. 3 (a) in its entirety, effective October 1, 1958. For subsec. 3 (a) as it read prior to this amendment, see p. 233.  
Pursuant to sec. 9 of the Act of April 19, 1950 (64 Stat. 44, 47), the Secretary of the Treasury must also pay to States, in addition to the amounts provided by sec. 3 (a) of the Social Security Act, an amount equal to 80 percent of the State share of expenditures under the State plan with respect to Navajo and Hopi Indians.  
See also sec. 1108 (p. 143) for a further limitation on the amounts which may be certified for payment to Puerto Rico, the Virgin Islands, and Guam for any fiscal year.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to old-age assistance furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service<sup>6</sup> of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

### Operation of State Plans

**Sec. 4.** In the case of any State plan for old-age assistance which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan finds—

<sup>6</sup>The Division of Disbursement was consolidated in the Fiscal Service of the Treasury Department by Reorganization Plan No. III, sec. 1 (a), effective June 30, 1940 (54 Stat. 1231).

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 2 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 2 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

### Administration

**Sec. 5.** [Executed. Authorized appropriation for administrative expenses of the Social Security Board under this title for the fiscal year ending June 30, 1936.]

### Definition

**Sec. 6.** For the purposes of this title, the term "old-age assistance" means money payments to, or medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are sixty-five years of age or older, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

## TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS\*

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### Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund

**Section 201.** (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund". The Federal Old-Age and Survivors Insurance Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, and, in addition, such amounts as may be appropriated to, or deposited in, the Federal Old-Age and Survivors Insurance Trust Fund as hereinafter provided. There is hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of the Internal Revenue Code of 1939 (and covered into the Treasury) which are deposited into the Treasury by collectors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of such Code which are deposited into the Treasury by collectors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of such Code with respect to wages (as defined in section 1426 of such Code), and by chapter 21 of the Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of such Code) reported to the Commissioner of Internal Revenue pursuant to section 1420 (c) of the Internal Revenue Code of 1939 after December 31, 1950, or to the Secretary of the Treasury or his

delegates pursuant to subtitle F of the Internal Revenue Code of 1954 after December 31, 1954,<sup>1</sup> as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare<sup>2</sup> on the basis of the records of wages established and maintained by such Secretary in accordance with such reports, less the amounts specified in clause (1) of subsection (b) of this section; and

(4) the taxes imposed by subchapter E of chapter 1 of the Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of such Code), and by chapter 2 of the Internal Revenue Code of 1954 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or to the Secretary of the Treasury, or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns, less the amounts specified in clause (2) of subsection (b) of this section.

The amounts appropriated by clauses (3) and (4) shall be transferred from time to time from the general fund in the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred from time to time from the general fund in the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of this subsection, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection.

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)  $\frac{1}{2}$  of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, which wages shall be certified by the Secretary of Health,

<sup>1</sup> For deposits in Trust Fund on account of taxes on remuneration considered wages pursuant to agreements entered into by domestic corporations with respect to their foreign subsidiaries, see sec. 3121 (1) (6) of the Internal Revenue Code of 1954, p. 279.

<sup>2</sup> Formerly, the (Federal Security) Administrator. See "Administration of the Social Security Act" under Preface, p. III.



Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2)  $\frac{3}{8}$  of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

(c) With respect to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (hereinafter in this title called the "Trust Funds") there is hereby created a body to be known as the Board of Trustees of the Trust Funds (hereinafter in this title called the "Board of Trustees") which Board of Trustees shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this title called the "Managing Trustee"). The Commissioner of Social Security shall serve as Secretary of the Board of Trustees. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Funds;

(2) Report to the Congress not later than the first day of March of each year on the operation and status of the Trust Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years;

(3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that during the ensuing five fiscal years either of the Trust Funds will exceed three times the highest annual expenditures from such Trust Fund anticipated during that five-fiscal-year period, and whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small; and

(4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the old-age and survivors insurance and Federal-State unemployment compensation program.

The report provided for in paragraph (2) above shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such

purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Funds. Such obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds, and bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt that are not due or callable until after the expiration of five years from the date of original issue; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such average rate. Such obligations shall be issued for purchase by the Trust Funds only if the Managing Trustee determines that the purchase in the market of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(e) Any obligations acquired by the Trust Funds (except special obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such special obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be credited to and form a part of the Federal Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, respectively.

(g) (1) The Managing Trustee is directed to pay from the Trust Funds into the Treasury the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general funds in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II and VIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. Such payments shall be covered into the Treasury as repayments to the account for reimbursement of expenses incurred in connection with the administration of titles II and VIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. There are hereby authorized to be made available for expenditure, out of either or both of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of administration of this title. After the close of each fiscal year, the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this title incurred during such fiscal year in order to determine the portion of such costs which should have been borne by each of the Trust Funds and shall certify to the Managing Trustee the amount, if any, which

should be transferred from one to the other of such Trust Funds in order to insure that each of the Trust Funds has borne its proper share of the costs of administration of this title incurred during such fiscal year. The Managing Trustee is authorized and directed to transfer any such amount from one to the other of such Trust Funds in accordance with any certification so made.

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes which are subject to refund under section 6413 (c) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1939 and section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1950. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420 (c) of the Internal Revenue Code of 1939 and to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

(3) Repayments made under paragraph (1) or (2) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(h) Benefit payments required to be made under section 223, and benefit payments required to be made under subsection (b), (c), or (d) of section 202 to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits,<sup>3</sup> shall be made only from the Federal Disability Insurance Trust Fund. All other benefit payments required to be made under this title shall be made only from the Federal Old-Age and Survivors Insurance Trust Fund.

## Old-Age and Survivors Insurance Benefit Payments

### Old-Age Insurance Benefits

Sec. 202. (a) Every individual who—

- (1) is a fully insured individual (as defined in section 214 (a)),
- (2) has attained retirement age (as defined in section 216 (a)),

and

<sup>3</sup> Sec. 205 (a) of P. L. 85-840 inserted wording beginning with "and benefit" through "disability insurance benefits" effective for months after August 1958 but only if an application for such benefits is filed on or after August 28, 1958.

(3) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65; shall be entitled to an old-age insurance benefit for each month, beginning with the first month after August 1950 in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies. Except as provided in subsection (q), such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount (as defined in section 215 (a)) for such month.

#### Wife's Insurance Benefits

(b) (1) The wife (as defined in section 216 (b)) of an individual entitled to old-age or disability<sup>4</sup> insurance benefits, if such wife—

(A) has filed application for wife's insurance benefits,

(B) has attained retirement age or has in her care (individually or jointly with her husband) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of her husband, and

(C)<sup>5</sup> is not entitled to old-age or disability<sup>6</sup> insurance benefits, or is entitled to old-age insurance benefits based on a primary insurance amount which is less than one-half of an old-age or disability<sup>7</sup> insurance benefit of her husband,

shall be entitled to a wife's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: she dies, her husband dies, they are divorced a vinculo matrimonii, no child of her husband is entitled to a child's insurance benefit and she has not attained retirement age, she becomes entitled to an old-age or disability<sup>8</sup> insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of an old-age insurance benefit of her husband, or her husband is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.<sup>9</sup>

(2) Except as provided in subsection (q), such wife's insurance benefit for each month shall be equal to one-half of the old-age or disability<sup>10</sup> insurance benefit of her husband for such month.

#### Husband's Insurance Benefits

(c) (1) The husband (as defined in section 216 (f)) of a currently insured individual (as defined in section 214 (b)) entitled to old-age or disability<sup>11</sup> insurance benefits, if such husband—

<sup>4</sup> Sec. 205 (b) (1) of P. L. 85-840 added "or disability" effective with respect to monthly benefits for months after August 1958 but only if an application for such benefits is filed on or after August 28, 1958.

<sup>5</sup> Sec. 3 (a) of P. L. 85-238 deleted former subpar. (C) and redesignated former subpar. (D) as (C), effective for months after August 1957. Former subpar. (C) read as follows: "(C) was living with such individual at the time such application was filed, and".

<sup>6</sup> See footnote 4.

<sup>7</sup> See footnote 4.

<sup>8</sup> See footnote 4.

<sup>9</sup> Sec. 205 (b) (2) of P. L. 85-840 added phrase "or her husband is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits" effective with respect to monthly benefits under title II for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>10</sup> See footnote 4.

<sup>11</sup> Sec. 205 (c) (2) of P. L. 85-840 inserted "or disability" effective with respect to monthly benefits under title II for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

(A) has filed application for husband's insurance benefits,  
 (B) has attained retirement age,  
 (C) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual—

(i) if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits, or

(ii) if she did not have such a period of disability, at the time she became entitled to such benefits,

and filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, as the case may be, or, if she did not have such a period, two years after the month in which she became entitled to such benefits, and <sup>12, 13</sup>

(D) is not entitled to old-age or disability <sup>14</sup> insurance benefits, or is entitled to old-age or disability <sup>15</sup> insurance benefits each of which is less than one-half of the primary insurance amount of his wife, shall be entitled to a husband's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced a vinculo matrimonii, or he becomes entitled to an old-age or disability <sup>16</sup> insurance benefit equal to or exceeding one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.<sup>17</sup>

(2) The requirement in paragraph (1) that the individual entitled to old-age or disability insurance benefits be a currently insured individual, and the provisions of subparagraph (C) of such paragraph, shall not be applicable in the case of any husband who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h); or

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d).<sup>18</sup>

<sup>12</sup> Sec. 205 (c) (1) of P. L. 85-840 amended subpar. (C) in its entirety, effective with respect to monthly benefits under title II for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958. For subpar. (C) as it read prior to amendment see p. 234.

<sup>13</sup> See sec. 207 (b) of P. L. 85-840 on p. 191 for extension of the 2-year filing period in some cases.

<sup>14</sup> See footnote 11.

<sup>15</sup> See footnote 11.

<sup>16</sup> See footnote 11.

<sup>17</sup> Sec. 205 (c) (3) of P. L. 85-840 added "or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits" effective with respect to monthly benefits under title II for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>18</sup> Sec. 301 (a) (1) of P. L. 85-840 redesignated former par. (2) as (3) and inserted a new par. (2) effective with respect to monthly benefits for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

(3) Such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife for such month.

#### Child's Insurance Benefits

(d) (1) Every child (as defined in section 216 (e)) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual after 1939, if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and either (i) had not attained the age of eighteen or (ii) was under a disability (as defined in section 223 (c)) which began before he attained the age of eighteen, and

(C) was dependent upon such individual—

(i) if such individual had a period of disability which did not end prior to the month in which he became entitled to old-age or disability insurance benefits or (if he has died) prior to the month in which he died, at the beginning of such period or at the time he became entitled to such benefits or died,

(ii) if such individual did not have such a period and is living, at the time such application was filed, or

(iii) if such individual did not have such a period and has died, at the time of such death,

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: such child dies, marries, is adopted (except for adoption by a step-parent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual), attains the age of eighteen and is not under a disability (as defined in section 223 (c)) which began before he attained such age, or ceases to be under a disability (as so defined) on or after the day on which he attains age eighteen. Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month.<sup>19</sup>

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual, except that, if there is more than one child entitled to benefits on the basis of such individual's wages and self-employment

<sup>19</sup> Sec. 205 (d) of P. L. 85-840 amended sec. 202 (d) (1) in its entirety, effective with respect to monthly benefits under title II for months after August 1958, but only if an application for such benefits is filed on or after August 23, 1958. For par. (1) of sec. 202 (d) as it read prior to amendment, see p. 235.

income, each such child's insurance benefit for such month shall be equal to the sum of (A) one-half of the primary insurance amount of such individual, and (B) one-fourth of such primary insurance amount divided by the number of such children.

(3) A child <sup>20</sup> shall be deemed dependent upon his father or adopting father at the time specified in paragraph (1) (C) unless, at such time, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child had been adopted by some other individual, or

(C) such child was living with and was receiving more than one-half of his support from his stepfather.

(4) A child <sup>21</sup> shall be deemed dependent upon his stepfather at the time specified in paragraph (1) (C) if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather.

(5) A child <sup>22</sup> shall be deemed dependent upon his natural or adopting mother at the time specified in paragraph (1) (C) if such mother or adopting mother was a currently insured individual. A child <sup>23</sup> shall also be deemed dependent upon his natural or adopting mother, or upon his stepmother, at the time specified in paragraph (1) (C) if, at such time, (A) she was living with or contributing to the support of such child, and (B) either (i) such child was neither living with nor receiving contributions from his father or adopting father, or (ii) such child was receiving at least one-half of his support from her.

(6) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (e), (f), (g), or (h) of this section or under section 223 (a), or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1), not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 223 (a) or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223 (a) or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223 (a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.<sup>24</sup>

<sup>20</sup> Sec. 306 (a) of P. L. 85-840 deleted "who has not attained age 18" effective with respect to monthly benefits under sec. 202 for months after August 1958, but only if an application for benefits is filed on or after August 28, 1958.

<sup>21</sup> See footnote 20.

<sup>22</sup> See footnote 20.

<sup>23</sup> See footnote 20.

<sup>24</sup> Sec. 307 (a) of P. L. 85-840 added new par. (6) effective with respect to monthly benefits under sec. 202 for months following August 1958; except that in any case in which benefits were terminated with the close of August 1958, or any prior month and, if the amendment made by this section had been in effect for such month, such benefits would not have been terminated, this section shall be effective with respect to monthly benefits under sec. 202 for months after August 1958, but only if an application for such benefit is filed after August 28, 1958.

Former par. (6) was deleted by sec. 306 (a) of P. L. 85-840. See p. 235 for former par. (6).

## Widow's Insurance Benefits

(e) (1) The widow (as defined in section 216 (c)) of an individual who died a fully insured individual after 1939, if such widow—

(A) has not remarried,

(B) has attained retirement age,

(C) (i) has filed application for widow's insurance benefits or was entitled, after attainment of retirement age, to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained retirement age, and

(D)<sup>25</sup> is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of her deceased husband, shall be entitled to a widow's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of her deceased husband.

(2) Such widow's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of her deceased husband.

(3) In the case of any widow of an individual—

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death which occurs within one year after such marriage and he did not die a fully insured individual<sup>26</sup> the marriage to the individual referred to in clause (A) shall, for the purposes of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow files application for purposes of this paragraph, or (iii) November 1956.

(4) In the case of a widow who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such widow's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1), not be terminated by

<sup>25</sup> Sec. 3 (c) of P. L. 85-238 deleted former subpar. (D) and redesignated subpar. (E) as (D) effective with respect to monthly benefits under sec. 202 for months after August 1957. Former subpar. (D) read as follows: "(D) was living with such individual at the time of his death, and".

<sup>26</sup> Sec. 301 (b) (1) of P. L. 85-840 substituted "which occurs within one year after such marriage and he did not die a fully insured individual," in place of "but she is not his widow (as defined in section 216 (c))" effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.



reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.<sup>27</sup>

#### Widower's Insurance Benefits

(f) (1) The widower (as defined in section 216 (g)) of an individual who died a fully and currently insured individual after August 1950, if such widower—

(A) has not remarried,

(B) has attained retirement age,

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died,

(D) (i) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time of her death or, if such individual had a period of disability which did not end prior to the month in which she died, at the time such period began or at the time of her death, and filed proof of such support within two years after the date of such death, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the date of such death, as the case may be, or (ii) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual, and she was a currently insured individual, at the time she became entitled to old-age or disability insurance benefits or, if such individual had a period of disability which did not end prior to the month in which she became so entitled, at the time such period began or at the time she became entitled to such benefits, and filed proof of such support within two years after the month in which she became entitled to such benefits, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the month in which she became entitled to such benefits, as the case may be, and <sup>28 29</sup>

(E) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of his deceased wife, shall be entitled to a widower's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes

<sup>27</sup> Sec. 307 (b) of P. L. 85-840 added new par. (4) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after August 1958; except that in any case in which benefits were terminated with the close of August 1958, or any prior month and, if this amendment had been in effect for such month, such benefits would not have been terminated, this section shall be effective with respect to monthly benefits under sec. 202 for months after August 1958, but only if an application for such benefits is filed after August 28, 1958.

<sup>28</sup> Sec. 205 (e) of P. L. 85-840 amended subpar. (D) in its entirety effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958. For subpar. (D) as it read prior to amendment, see p. 236.

<sup>29</sup> See sec. 207 (b) of P. L. 85-840 on p. 191 for extension of the 2-year filing period in some cases.

so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of his deceased wife.

(2) The requirement in paragraph (1) that the deceased fully insured individual also be a currently insured individual, and the provisions of subparagraph (D) of such paragraph, shall not be applicable in the case of any individual who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under this subsection or subsection (h); or

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d).<sup>30</sup>

(3) Such widower's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of his deceased wife.

(4) In the case of a widower who marries—

(A) an individual entitled to benefits under subsection (e), (g), or (h), or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d), such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1), not be terminated by reason of such marriage.<sup>31</sup>

#### Mother's Insurance Benefits

(g) (1) The widow and every former wife divorced (as defined in section 216 (d)) of an individual who died a fully or currently insured individual after 1939, if such widow or former wife divorced—

(A) has not remarried,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

<sup>30</sup> Sec. 301 (c) (1) of P. L. 85-840 redesignated former par. (2) as (3), and inserted a new par. (2) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>31</sup> Sec. 307 (c) of P. L. 85-840 added par. (4) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after August 1958; except that in any case in which benefits were terminated with the close of August 1958, or any prior month, and if the amendment made by this section had been in effect for such month, such benefits would not have been terminated, this amendment shall be effective with respect to monthly benefits under sec. 202 for months after August 1958, but only if an application for such benefits is filed after August 28, 1958.

(F)<sup>32</sup> in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death,<sup>33</sup> and the child referred to in subparagraph (E) is her son, daughter, or legally adopted child and the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income shall be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or former wife divorced becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a former wife divorced, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such former wife divorced is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of any widow or former wife divorced of an individual—

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not, and upon filing application therefor in the month in which he died would not be, entitled to benefits for such month on the basis of his wages and self-employment income,

the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) the month following the month in which this paragraph is enacted.<sup>34</sup>

(4) In the case of a widow or former wife divorced who marries—

(A) an individual entitled to benefits under subsection (a), (f), or (h), or under section 223 (a), or

<sup>32</sup> Sec. 3 (e) of P. L. 85-238 deleted clause (1) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after August 1957. Clause (1) read as follows: "(1) in the case of a widow, was living with such individual at the time of his death".

<sup>33</sup> Sec. 205 (f) of P. L. 85-840 added words beginning with "or, if such individual", through "at the time of such death", effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>34</sup> Sec. 803 (a) of P. L. 85-840 enacted on August 28, 1958, added new par. (3). In so doing, it repealed a par. (3) which had been added by P. L. 85-798, enacted on August 27, 1958. For this repealed provision, see p. 236.

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d), the entitlement of such widow or former wife divorced to benefits under this subsection shall, notwithstanding the provisions of paragraph (1), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 223 (a) or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223 (a) or subsection (d) of this section unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223 (a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.<sup>35</sup>

### Parent's Insurance Benefits

(h) (1) Every parent (as defined in this subsection) of an individual who died a fully insured individual after 1939, if such parent<sup>36</sup>—

(A) has attained retirement age,

(B) (i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,<sup>37, 38</sup>

(C) has not married since such individual's death,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such deceased individual, and

(E) has filed application for parent's insurance benefits, shall be entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which such parent

<sup>35</sup> Sec. 307 (d) of P. L. 85-840 added new par. (4) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months following August 1958; except that in any case in which benefits were terminated with the close of August 1958 or any prior month and, if this amendment had been in effect for such month, such benefits would not have been terminated, this amendment shall be effective with respect to monthly benefits under sec. 202 for months after August 1958, but only if an application for such benefits is filed after August 28, 1958.

<sup>36</sup> Sec. 304 (a) (1) of P. L. 85-840 amended so much of sec. 202 (h) (1) as appears before subpar. (A) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958. See p. 236 for this paragraph as it read prior to amendment.

For extension of the 2-year filing period in cases where a parent is entitled to benefits only because of this amendment, and the worker died before August 28, 1958, see sec. 304 (c) of P. L. 85-840 on p. 191.

<sup>37</sup> Sec. 205 (g) of P. L. 85-840 substituted new subpar. (B) for former subpar. (B) effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958 but only if an application for such benefits is filed on or after August 28, 1958. Former subpar. (B) read as follows: "(B) was receiving at least one-half of his support from such individual at the time of such individual's death and filed proof of such support within two years of such date of death."

<sup>38</sup> See sec. 207 (b) of P. L. 85-840 on p. 191 for extension of the 2-year filing period in some cases.

becomes so entitled to such parent's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual.

(2) Such parent's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

(4) In the case of a parent who marries—

(A) An individual entitled to benefits under this subsection or subsection (e), (f), or (g), or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1), not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.<sup>39</sup>

#### Lump-Sum Death Payments

(i) Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount, or an amount equal to \$255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Secretary to be the widow or widower of the deceased and to have been living in the same household<sup>40</sup> with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured

<sup>39</sup> Sec. 307 (e) of P. L. 85-840 added new par. (4) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months following August 1958, except that in any case in which benefits were terminated with the close of August 1958 or any prior month and, if this amendment had been in effect for such month such benefits would not have been terminated, this amendment shall be effective with respect to monthly benefits under sec. 202 for months after August 1958, but only if an application for such benefits is filed after August 28, 1958.

<sup>40</sup> Sec. 305 (a) of P. L. 85-840 added the phrase "in the same household" effective in the case of lump-sum death payments under sec. 202 (i) on the basis of the wages and self-employment income of any individual who dies after August 1958.

individual, for the month preceding the month in which such individual died. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before January 1, 1957, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1956 while he was performing service, as a member of a uniformed service, to which the provisions of section 210 (m) (1) are applicable, and who is returned to any of such States, or the District of Columbia, or to any Territory or possession of the United States, for interment or reinterment, the provisions of the third sentence of this subsection shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

#### Application for Monthly Insurance Benefits

(j) (1) An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

(2) No application for any benefit under this section for any month after August 1950 which is filed prior to three months before the first month for which the applicant becomes entitled to such benefit shall be accepted as an application for the purposes of this section; and any application filed within such three months' period shall be deemed to have been filed in such first month.

(3) Notwithstanding the provisions of paragraph (1), a woman may, at her option, waive entitlement to old-age insurance benefits or wife's insurance benefits for any one or more consecutive months which occur—

(A) after the month before the month in which she attains the age of sixty-two,

(B) prior to the month in which she attains the age of sixty-five, and

(C) prior to the month in which she files application for such benefits;

and, in such case, she shall not be considered as entitled to such benefits for any such month or months before she filed such application. A woman shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

#### Simultaneous Entitlement to Benefits

(k) (1) A child, entitled to child's insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child's insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) hereof, to child's insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child's insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child's insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

(2) (A) Any child who under the preceding provisions of this section is entitled for any month to more than one child's insurance benefit shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month, such benefit to be the one based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount.

(B) Any individual who, under the preceding provisions of this section and under the provisions of section 223, is entitled for any month to more than one monthly insurance benefit (other than old-age or disability <sup>41</sup> insurance benefit) under this title shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph (B)) would otherwise be entitled for such month.

(3) If an individual is entitled to an old-age or disability <sup>42</sup> insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month, after any reduction under subsection (q) and any reduction under section 203 (a), shall be reduced, but not below zero, by an amount equal to such old-age or disability <sup>43</sup> insurance benefit (after reduction under such subsection (q)).

#### Entitlement to Survivor Benefits Under Railroad Retirement Act

(1) If any person would be entitled, upon filing application therefor to an annuity under section 5 of the Railroad Retirement Act of 1937, or to a lump-sum payment under subsection (f) (1) of such section, with respect to the death of an employee (as defined in such Act) no lump-sum death payment, and no monthly benefit for the month in which such employee died or for any month thereafter, shall be paid

<sup>41</sup> Sec. 205 (h) of P. L. 85-840 added "or disability" effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958 but only if an application for such benefits is filed on or after August 28, 1958.

<sup>42</sup> See footnote 41.

<sup>43</sup> See footnote 41.

under this section to any person on the basis of the wages and self-employment income of such employee.

#### Minimum Survivor's or Dependent's Benefit

(m) In any case in which the benefit of any individual for any month under this section (other than subsection (a)) is, prior to reduction under subsection (k) (3) and subsection (q), less than the first figure in column IV of the table in section 215 (a)<sup>44</sup> and no other individual is (without the application of section 202 (j) (1)) entitled to a benefit under this section for such month on the basis of the same wages and self-employment income, such benefit for such month shall, prior to reduction under such subsection (k) (3) and subsection (q), be increased to the first figure in column IV of the table in section 215 (a).<sup>45</sup>

#### Termination of Benefits Under Deportation of Primary Beneficiary

(n) (1) If any individual is (after the date of enactment of this subsection) deported under paragraph (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241 (a) of the Immigration and Nationality Act,<sup>46</sup> then, notwithstanding any other provisions of this title—

(A) no monthly benefit under this section or section 223 shall be paid to such individual, on the basis of his wages and self-employment income, for any month occurring (i) after the month in which the Secretary is notified by the Attorney General that such individual has been so deported, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence,

(B) if no benefit could be paid to such individual (or if no benefit could be paid to him if he were alive) for any month by reason of subparagraph (A), no monthly benefit under this section shall be paid, on the basis of his wages and self-employment income, for such month to any other person who is not a citizen of the United States and is outside the United States for any part of such month, and

(C) no lump-sum death payment shall be made on the basis of such individual's wages and self-employment income if he dies (i) in or after the month in which such notice is received, and (ii) before the month in which he is thereafter lawfully admitted to the United States for permanent residence.

Section 203 (b) and (c) of this Act shall not apply with respect to any such individual for any month for which no monthly benefit may be paid to him by reason of this paragraph.

(2) As soon as practicable after the deportation of any individual under any of the paragraphs of section 241 (a) of the Immigration and Nationality Act enumerated in paragraph (1) in this subsection, the Attorney General shall notify the Secretary of such deportation.

<sup>44</sup> Sec. 101 (e) of P. L. 85-840 substituted "the first figure in column IV of the table in section 215 (a)" in place of "\$30," effective in the case of monthly benefits under title II of the Social Security Act for months after December 1958, and in the case of lump-sum death payments under such title, with respect to deaths occurring after December 1958.

<sup>45</sup> See footnote 44.

<sup>46</sup> See p. 369 for the provisions of the Immigration and Nationality Act.



**Application for Benefits by Survivors of Members and Former Members of the Uniformed Services**

(o) In the case of any individual who would be entitled to benefits under subsection (d), (e), (g), or (h) upon filing proper application therefor, the filing with the Administrator of Veterans' Affairs by or on behalf of such individual of an application for such benefits, on the form prescribed under section 601 of the Servicemen's and Veterans' Survivor Benefits Act, shall satisfy the requirement of such subsection (d), (e), (g), or (h) that an application for such benefits be filed.

**Extension of Period for Filing Proof of Support and Applications for Lump-Sum Death Payment**

(p) In any case in which there is a failure—

(1) to file proof of support under subparagraph (C) <sup>47</sup> of subsection (c) (1), clause (i) or (ii) of subparagraph (D) <sup>48</sup> of subsection (f) (1), or subparagraph (B) of subsection (h) (1), or under clause (B) of subsection (f) (1) of this section as in effect prior to the Social Security Act Amendments of 1950 within the period prescribed by such subparagraph or clause, or

(2) to file, in the case of a death after 1946, application for a lump-sum death payment under subsection (i), or under subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subsection,

and it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof or application, as the case may be, within such period, such proof or application shall be deemed to have been filed within such period if it is filed within two years following such period or within two years following August 1956, whichever is later. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

**Adjustment of Old-Age and Wife's Insurance Benefit Amounts in Accordance With Age of Female Beneficiary**

(q) (1) The old-age insurance benefit of any woman for any month prior to the month in which she attains the age of sixty-five shall be reduced by—

(A)  $\frac{5}{9}$  of 1 per centum, multiplied by

(B) the number equal to the number of months in the period beginning with the first day of the first month for which she is entitled to an old-age insurance benefit and ending with the last day of the month before the month in which she would attain the age of sixty-five.

(2) The wife's insurance benefit of any wife for any month after the month preceding the month in which she attains the age of sixty-two and prior to the month in which she attains the age of sixty-five shall be reduced by—

<sup>47</sup> Sec. 3 (g) of P. L. 85-238 changed "subparagraph (D)" to "subparagraph (C)" effective with respect to monthly benefits under sec. 202 for months after August 1957.

<sup>48</sup> Sec. 3 (g) of P. L. 85-238 changed "subparagraph (E)", to "subparagraph (D)", effective with respect to monthly benefits under sec. 202 for months after August 1957.

(A)  $25\frac{5}{36}$  of 1 per centum, multiplied by

(B) the number equal to the number of months in the period beginning with the first day of the first month for which she is entitled to such wife's insurance benefit and ending with the last day of the month before the month in which she would attain the age of sixty-five, except that in no event shall such period start earlier than the first day of the month in which she attains the age of sixty-two.

The preceding provisions of this paragraph shall not apply to the benefit for any month in which such wife has in her care (individually or jointly with the individual on whose wages and self-employment income such wife's insurance benefit is based) a child entitled to child's insurance benefits on the basis of such wages and self-employment income. With respect to any month in the period specified in clause (B) of the first sentence, if such wife does not have in such month such a child in her care (individually or jointly with such individual), she shall be deemed to have such a child in her care in such month for the purposes of the preceding sentence unless there is in effect for such month a certificate filed by her with the Secretary, in accordance with regulations prescribed by him, in which she elects to receive wife's insurance benefits reduced as provided in this subsection. Any certificate filed pursuant to the preceding sentence shall be effective for purposes of such sentence—

(i) for the month in which it is filed, and for any month thereafter, if in such month she does not have such a child in her care (individually or jointly with such individual), and

(ii) for the period of one or more consecutive months (not exceeding twelve) immediately preceding the month in which such certificate is filed which is designated by her (not including as part of such period any month in which she had such a child in her care (individually or jointly with such individual)).

If such a certificate is filed, the period referred to in clause (B) of the first sentence of this paragraph shall commence with the first day of the first month (i) for which she is entitled to a wife's insurance benefit, (ii) which occurs after the month preceding the month in which she attained the age of sixty-two, and (iii) for which such certificate is effective.

(3) In the case of any woman who is entitled to an old-age insurance benefit to which paragraph (1) is applicable and who, for the first month for which she is so entitled (but not for any prior month) or for any later month occurring before the month in which she attains the age of sixty-five, is entitled to a wife's insurance benefit to which paragraph (2) is applicable, the amount of such wife's insurance benefit for any month prior to the month in which she attains the age of sixty-five shall, in lieu of the reduction provided in paragraph (2), be reduced by the sum of—

(A) an amount equal to the amount by which such old-age insurance benefit for such month is reduced under paragraph (1), plus

(B) an amount equal to—

(i) the number equal to the number of months specified in clause (B) of paragraph (2), multiplied by

(ii)  $25\frac{5}{36}$  of 1 per centum, and further multiplied by

(iii) the excess of such wife's insurance benefit prior to

reduction under this subsection over the old-age insurance benefit prior to reduction under this subsection.

(4) In the case of any woman who is or was entitled to a wife's insurance benefit to which paragraph (2) is applicable and who, for any month after the first month for which she is or was so entitled (but not for such first month or any earlier month) occurring before the month in which she attains the age of sixty-five, is entitled to an old-age insurance benefit, the amount of such old-age insurance benefit for any month prior to the month in which she attains the age of sixty-five shall, in lieu of the reduction provided in paragraph (1), be reduced by the sum of—

(A) an amount equal to the amount by which such wife's insurance benefit is reduced under paragraph (2) for such month (or, if she is not entitled to a wife's insurance benefit for such month, by an amount equal to the amount by which such benefit was reduced for the last month for which she was entitled thereto), plus

(B) if the old-age insurance benefit for such month prior to reduction under this subsection exceeds such wife's insurance benefit prior to reduction under this subsection, an amount equal to—

(i) the number equal to the number of months specified in clause (B) of paragraph (1), multiplied by

(ii)  $\frac{5}{9}$  of 1 per centum, and further multiplied by

(iii) the excess of such old-age insurance benefit over such wife's insurance benefit.

(5) In the case of any woman who is entitled to an old-age insurance benefit for the month in which she attains the age of sixty-five or any month thereafter, such benefit for such month shall, if she was also entitled to such benefit for any one or more months prior to the month in which she attained the age of sixty-five and such benefit for any such prior month was reduced under paragraph (1) or (4), be reduced as provided in such paragraph, except that there shall be subtracted, from the number specified in clause (B) of such paragraph—

(A) the number equal to the number of months for which such benefit was reduced under such paragraph, but for which such benefit was subject to deductions under paragraph (1) or (2) of section 203 (b),

and except that, in the case of any such benefit reduced under paragraph (4), there also shall be subtracted from the number specified in clause (B) of paragraph (2), for the purpose of computing the amount referred to in clause (A) of paragraph (4)—

(B) the number equal to the number of months for which the wife's insurance benefit was reduced under such paragraph (2), but for which such benefit was subject to deductions under paragraph (1) or (2) of section 203 (b), under section 203 (c), or under section 222 (b),<sup>49</sup>

(C) the number equal to the number of months occurring after the first month for which such wife's insurance benefit was reduced under such paragraph (2) in which she had in her care

<sup>49</sup> Sec. 205 (1) (1) of P. L. 85-840 added "or under section 222 (b)," effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

(individually or jointly with the individual on whose wages and self-employment income such benefit is based) a child of such individual entitled to child's insurance benefits, and

(D) the number equal to the number of months for which such wife's insurance benefit was reduced under such paragraph (2), but in or after which her entitlement to wife's insurance benefits was terminated because her husband ceased to be under a disability, not including in such number of months any month after such termination in which she was entitled to wife's insurance benefits.<sup>50</sup>

Such subtraction shall be made only if the total of such months specified in clauses (A), (B), (C), and (D)<sup>51</sup> of the preceding sentence is not less than three. For purposes of clauses (B) and (C) of this paragraph, a wife's insurance benefit shall not be considered terminated for any reason prior to the month in which she attains the age of sixty-five.

(6) In the case of any woman who is entitled to a wife's insurance benefit for the month in which she attains the age of sixty-five or any month thereafter, such benefit for such month shall, if she was also entitled to such benefit for any one or more months prior to the month in which she attained the age of sixty-five and such benefit for any such prior month was reduced under paragraph (2) or (3), be reduced as provided in such paragraph, except that there shall be subtracted from the number specified in clause (B) of such paragraph—

(A) the number equal to the number of months for which such benefit was reduced under such paragraph, but for which such benefit was subject to deductions under section 203 (b) (1) or (2), under section 203 (c), or under section 222 (b),<sup>52</sup>

(B) the number equal to the number of months, occurring after the first month for which such benefit was reduced under such paragraph, in which she had in her care (individually or jointly with the individual on whose wages and self-employment income such benefit is based) a child of such individual entitled to child's insurance benefits,

and except that, in the case of any such benefit reduced under paragraph (3), there also shall be subtracted from the number specified in clause (B) of paragraph (1), for the purpose of computing the amount referred to in clause (A) of paragraph (3) and—

(C) the number equal to the number of months for which such benefit was reduced under such paragraph, but in or after which her entitlement to wife's insurance benefits was terminated because her husband ceased to be under a disability, not including in such number of months any month after such termination in which she was entitled to wife's insurance benefits.<sup>53</sup>

<sup>50</sup> Sec. 205 (1) (2) of P. L. 85-840 added new subpar. (D), effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>51</sup> Sec. 205 (1) (2) of P. L. 85-840 changed "(A), (B), and (C)" to "(A), (B), (C), and (D)." See footnote 50 for effective dates.

<sup>52</sup> Sec. 205 (1) (3) of P. L. 85-840 added "or under section 222 (b)," effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>53</sup> Sec. 205 (1) (4) of P. L. 85-840 added new subpar. (C) and redesignated former subpar. (C) as (D), effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

This amendment also added the word "and" at the end of subpar. (B); however, the word "and" should appear instead at the end of subpar. (C).

(D) the number equal to the number of months for which the old-age insurance benefit was reduced under such paragraph (1) but for which such benefit was subject to deductions under paragraph (1) or (2) of section 203 (b).

Such subtraction shall be made only if the total of such months specified in clauses (A), (B), (C), and (D) <sup>54</sup> of the preceding sentence is not less than three.

(7) In the case of a woman who is entitled to an old-age insurance benefit to which paragraph (5) is applicable and who, for the month in which she attains the age of sixty-five (but not for any prior month) or for any later month, is entitled to a wife's insurance benefit, the amount of such wife's insurance benefit for any month shall be reduced by an amount equal to the amount by which the old-age insurance benefit is reduced under paragraph (5) for such month.

(8) In the case of a woman who is or was entitled to a wife's insurance benefit to which paragraph (2) was applicable and who, for the month in which she attains the age of sixty-five (but not for any prior month) or for any later month, is entitled to an old-age insurance benefit, the amount of such old-age insurance benefit for any month shall be reduced by an amount equal to the amount by which the wife's insurance benefit is reduced under paragraph (6) for such month (or, if she is not entitled to a wife's insurance benefit for such month, by (i) an amount equal to the amount by which such benefit for the last month for which she was entitled thereto was reduced, or (ii) if smaller, an amount equal to the amount by which such benefit would have been reduced under paragraph (6) for the month in which she attained the age of sixty-five if entitlement to such benefit had not terminated before such month).

(9) The preceding paragraphs shall be applied to old-age insurance benefits and wife's insurance benefits after reduction under section 203 (a) and application of section 215 (g). If the amount of any reduction computed under paragraph (1), under paragraph (2), under clause (A) or clause (B) of paragraph (3), or under clause (A) or clause (B) of paragraph (4) is not a multiple of \$0.10, it shall be reduced to the next lower multiple of \$0.10.

#### **Presumed Filing of Application by Woman Eligible for Old-Age and Wife's Insurance Benefits**

(r) Any woman who becomes entitled to an old-age insurance benefit for any month prior to the month in which she attains the age of sixty-five and who is eligible for a wife's insurance benefit for the same month shall be deemed to have filed an application in such month for wife's insurance benefits. Any woman who becomes entitled to a wife's insurance benefit for any month prior to the month in which she attains the age of sixty-five and who is eligible for an old-age insurance benefit for the same month shall be deemed, unless she has in such month a child in her care (individually or jointly with the individual on whose wages and self-employment income her wife's insurance benefits are based) a child entitled to child's insurance benefits on the basis of such wages and self-employment income, to have filed an application in such month for old-age insurance benefits. For

<sup>54</sup> Sec. 205 (1) (4) of P. L. 85-840 changed "(A), (B), and (C)" to "(A), (B), (C), and (D)". See footnote 53 for effective date.

purposes of this subsection an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, she would have been entitled to such benefit for such month.

#### **Female Disability Insurance Beneficiary**

(s) (1) If any woman becomes entitled to a widow's insurance benefit or parent's insurance benefit for a month before the month in which she attains the age of sixty-five, or becomes entitled to an old-age insurance benefit or wife's insurance benefit for a month before the month in which she attains the age of sixty-five which is reduced under the provisions of subsection (q), such individual may not thereafter become entitled to disability insurance benefits under this title.

(2) If a woman would, but for the provisions of subsection (k) (2) (B), be entitled for any month to a disability insurance benefit and to a wife's insurance benefit, subsection (q) shall be applicable to such wife's insurance benefit for such month only to the extent it exceeds such disability insurance benefit for such month.

(3) The entitlement of any woman to disability insurance benefits shall terminate with the month before the month in which she becomes entitled to old-age insurance benefits.

#### **Suspension of Benefits of Aliens Who Are Outside the United States**

(t) (1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Secretary finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States.

(2) Paragraph (1) shall not apply to any individual who is a citizen of a foreign country which the Secretary finds has in effect a social insurance or pension system which is of general application in such country and under which—

(A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and

(B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

(3) Paragraph (1) shall not apply in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of the enactment of this subsection.

(4) Paragraph (1) shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside the United States while in the active military or naval service of the United States, or

(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 210 (m) (2) and (3)) as a member of a uniformed service (as defined in section 210 (n)), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 210 (m) (2)), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 210 (m) (3)), as a member of a uniformed service (as defined in section 210 (n)), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause, or<sup>55</sup>

(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act.<sup>56</sup>

(5) No person who is, or upon application would be, entitled to a monthly benefit under this section for December 1956 shall be deprived, by reason of paragraph (1), of such benefit or any other benefit based on the wages and self-employment income of the individual on whose wages and self-employment income such monthly benefit for December 1956 is based.

(6) If an individual is outside the United States when he dies and no benefit may, by reason of paragraph (1), be paid to him for the month preceding the month in which he dies, no lump-sum death payment may be made on the basis of such individual's wages and self-employment income.

(7) Subsections (b) and (c) of section 203 shall not apply with respect to any individual for any month for which no monthly benefit may be paid to him by reason of paragraph (1) of this subsection.

(8) The Attorney General shall certify to the Secretary such information regarding aliens who depart from the United States to any foreign country (other than a foreign country which is territorially contiguous to the continental United States) as may be necessary to enable the Secretary to carry out the purposes of this subsection and shall otherwise aid, assist, and cooperate with the Secretary in obtain-

<sup>55</sup> Sec. 1 of P. L. 85-238 added subpar. (D) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under sec. 202 in the case of deaths occurring after December 1956.

<sup>56</sup> Sec. 301 of P. L. 85-927, enacted on September 6, 1958, added new subpar. (E) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section in the case of deaths occurring after December 1956.

ing such other information as may be necessary to enable the Secretary to carry out the purposes of this subsection.

#### Conviction of Subversive Activities, Etc.

(u) (1) If any individual is convicted of any offense (committed after the date of the enactment of this subsection) under—

(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18 of the United States Code, or

(B) section 4, 112, or 113 of the Internal Security Act of 1950, as amended,

then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly insurance benefit under this section or section 223 is payable to such individual for the month in which he is convicted or for any month thereafter, and in determining the amount of any such benefit payable to such individual for any such month, there shall not be taken into account—

(C) any wages paid to such individual or to any other individual in the calendar quarter in which such conviction occurs or in any prior calendar quarter, and

(D) any net earnings from self-employment derived by such individual or by any other individual during a taxable year in which such conviction occurs or during any prior taxable year.

(2) As soon as practicable after an additional penalty has, pursuant to paragraph (1), been imposed with respect to any individual, the Attorney General shall notify the Secretary of such imposition.

(3) If any individual with respect to whom an additional penalty has been imposed pursuant to paragraph (1) is granted a pardon of the offense by the President of the United States, such additional penalty shall not apply for any month beginning after the date on which such pardon is granted.<sup>57</sup>

### Reduction of Insurance Benefits

#### Maximum Benefits

**Sec. 203.** (a) Whenever the total of monthly benefits to which individuals are entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an insured individual is greater than the amount appearing in column V of the table in section 215 (a) on the line on which appears in column IV such insured individual's primary insurance amount, such total of benefits shall be reduced to such amount; except that—

(1) when any of such individuals so entitled would (but for the provisions of section 202 (k) (2) (A)) be entitled to child's insurance benefits on the basis of the wages and self-employment

<sup>57</sup> Sec. 121 (b) of the 1956 Amendments provides that this subsection "shall not be construed to restrict or otherwise affect any of the provisions of the Act entitled 'An Act to prohibit payments of annuities to officers and employees of the United States convicted of certain offenses, and for other purposes,' approved September 1, 1954." (P. L. 769, 83d Cong.).



income of one or more other insured individuals, such total of benefits shall not be reduced to less than the smaller of: (A) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or (B) the last figure in column V of the table appearing in section 215 (a), or

(2) when any of such individuals was entitled (without the application of section 202 (j) (1) and section 223 (b)) to monthly benefits under section 202 or section 223 for December 1958, and the primary insurance amount of the insured individual on the basis of whose wages and self-employment income such monthly benefits are payable is determined under the provisions of section 215 (a) (2), then such total benefits shall not be reduced to less than the larger of—

(A) the amount determined under this subsection without regard to this paragraph, or

(B) the amount determined under this subsection as in effect prior to the enactment of the Social Security Amendments of 1958 or the amount determined under section 102 (h) of the Social Security Amendments of 1954, as the case may be, plus the excess of—

(i) the primary insurance amount of such insured individual in column IV of the table appearing in section 215 (a), over

(ii) his primary insurance amount determined under section 215 (c), or

(3) when any of such individuals is entitled (without the application of section 202 (j) (1) and section 223 (b)) to monthly benefits based on the wages and self-employment income of an insured individual with respect to whom a period of disability (as defined in section 216 (i)) began prior to January 1959 and continued until—

(A) he became entitled to benefits under section 202 or 223, or

(B) he died, whichever first occurred, and the primary insurance amount of such insured individual is determined under the provisions of section 215 (a) (1) or (3) and is not less than \$68, then such total of benefits shall not be reduced to less than the smaller of—

(C) the last figure in column V of the table appearing in section 215 (a), or

(D) the amount in column V of such table on the same line on which, in column IV, appears his primary insurance amount, plus the excess of—

(i) such primary insurance amount, over

(ii) the smaller amount in column II of the table on the line on which appears such primary insurance amount.

In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, such reduction shall be made after any deductions under this section and after any deductions under section 222 (b). Whenever a reduction is made under this subsection, each

benefit, except the old-age or disability insurance benefit, shall be proportionately decreased.<sup>58, 59</sup>

#### **Deductions on Account of Work or Failure to Have Child in Care**

(b) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under section 202 for any month—

(1) in which such individual is under the age of seventy-two and for which month he is charged with any earnings under the provisions of subsection (e) of this section; or

(2) in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States; or

(3) in which such individual, if a wife under age 65 entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit and such wife's insurance benefit for such month was not reduced under the provisions of section 202 (q); or

(4) in which such individual, if a widow entitled to a mother's insurance benefit, did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

(5) in which such individual, if a former wife divorced entitled to a mother's insurance benefit, did not have in her care a child of her deceased former husband, who (A) is her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

For purposes of paragraphs (3), (4), and (5), a child shall not be considered to be entitled to a child's insurance benefit for any month in which an event specified in section 222 (b) occurs with respect to such child. No deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month.

#### **Deductions From Dependents' Benefits Because of Work by Old-Age Insurance Beneficiary**

(c) (1) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old-age insurance benefits<sup>60</sup> to which a wife, husband, or child is entitled, until the total of such

<sup>58</sup> Sec. 101 (f) of P. L. 85-840 amended subsec. 203 (a) in its entirety effective in the case of monthly benefits under title II of the Social Security Act, for months after December 1958, and in the case of lump-sum death payments under such title, with respect to deaths occurring after such month. For subsec. 203 (a) as it read prior to amendment, see p. 237.

<sup>59</sup> See sec. 304 (b) of P. L. 85-840 on p. 191, for saving provision where the maximum family benefit and parent's benefits are involved and death occurred before August 28, 1958.

<sup>60</sup> Sec. 205 (j) of P. L. 85-840 added the phrase "based on the wages and self-employment income of an individual entitled to old-age insurance benefits," effective with respect to monthly benefits under title II of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month—

(A) in which the individual, on the basis of whose wages and self-employment income such benefit was payable, is under the age of seventy-two and for which month he is charged with any earnings under the provisions of subsection (e) of this section; or

(B) in which the individual referred to in subparagraph (A) <sup>61</sup> is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's insurance benefit or benefits under section 202 for any month—

(A) in which such child or person entitled to mother's insurance benefit is married to an individual entitled to old-age insurance benefits under section 202 (a) who is under the age of seventy-two and for which month such individual is charged with any earnings under the provisions of subsection (c) of this section, or

(B) in which such child or person entitled to mother's insurance benefits is married to the individual referred to in subparagraph (A) and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States.<sup>62</sup>

#### Occurrence of More Than One Event

(d) If more than one of the events specified in subsections (b) and (c) and section 222 (b) occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted. The charging of earnings to any month shall be treated as an event occurring in such month.

#### Months to Which Earnings Are Charged

(e) For the purposes of subsections (b) and (c)—

(1) If an individual's earnings for a taxable year of twelve months are not more than \$1,200, no month in such year shall be charged with any earnings. If an individual's earnings for a taxable year of less than twelve months are not more than the product of \$100 times the number of months in such year, no month in such year shall be charged with any earnings.

(2) If an individual's earnings for a taxable year of twelve months are in excess of \$1,200, the amount of his earnings in excess of \$1,200 shall be charged to months as follows: The first \$80 of such excess shall be charged to the first <sup>63</sup> month of such tax-

<sup>61</sup> Sec. 307 (f) of P. L. 85-840 added "(1)" after "(c)"; redesignated pars. (1) and (2) as subpars. (A) and (B); substituted the phrase "subparagraph (A)" for "paragraph (1)" in subpar. (B), effective with respect to monthly benefits under subsecs. (d) or (g) of sec. 202 for months in any taxable year, of the individual to whom the person entitled to such benefits is married, beginning after August 1958.

<sup>62</sup> Sec. 307 (f) of P. L. 85-840 added new par. (2). See footnote 61 for effective date.

<sup>63</sup> Sec. 308 (a) of P. L. 85-840 changed "last" to "first", effective with respect to taxable years beginning after August 1958.

able year, and the balance, if any, of such excess shall be charged at the rate of \$80 per month to each succeeding<sup>64</sup> month in such year to which such charging is not prohibited by the last sentence of this paragraph, until all of such balance has been applied. If an individual's earnings for a taxable year of less than twelve months are more than the product of \$100 times the number of months in such year, the amount of such earnings in excess of such product shall be charged to months as follows: The first \$80 of such excess shall be charged to the first<sup>65</sup> month of such taxable year, and the balance, if any, shall be charged at the rate of \$80 per month to each succeeding<sup>66</sup> month in such year to which such charging is not prohibited by the last sentence of this paragraph, until all of such balance has been applied. Notwithstanding the preceding provisions of this paragraph, no part of the excess referred to in such provisions shall be charged to any month (A) for which the individual whose earnings are involved was not entitled to a benefit under this title, (B) in which an event described in paragraph (2), (3), (4), or (5) of subsection (b) occurred, (C) in which such individual was age seventy-two or over, or (D) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (4) of this subsection) of more than \$100.<sup>67</sup>

(3) (A) As used in paragraph (2), the term "first month of such taxable year" means the earliest month<sup>68</sup> in such year to which the charging of the excess described in such paragraph is not prohibited by the application of clauses (A), (B), (C), and (D) thereof.

(B) For purposes of clause (D) of paragraph (2)—

(i) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (4) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(ii) An individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (4) of this subsection) of more than \$100<sup>69</sup> until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

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<sup>64</sup> Sec. 808 (a) of P. L. 85-840 changed "preceding" to "succeeding", effective with respect to taxable years beginning after August 1958.

<sup>65</sup> See footnote 63.

<sup>66</sup> See footnote 64.

<sup>67</sup> Sec. 808 (c) of P. L. 85-840 substituted "\$100" for "\$80", effective with respect to taxable years beginning after August 1958.

<sup>68</sup> Sec. 808 (b) of P. L. 85-840 replaced the phrase "the term 'last month of such taxable year' means the latest month," with the phrase "the term 'first month of such taxable year' means the earliest month," effective with respect to taxable years beginning after August 1958.

<sup>69</sup> See footnote 67.

(4) (A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) In determining an individual's net earnings from self-employment and his net loss from self-employment for purposes of subparagraph (A) of this paragraph and subparagraph (B) of paragraph (3), the provisions of section 211, other than paragraphs (1), (4), and (5) of subsection (c), shall be applicable; and any excess of income over deductions resulting from such a computation shall be his net earnings from self-employment and any excess of deductions over income so resulting shall be his net loss from self-employment.

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsections (a), (g) (2), (g) (3), (h) (2), and (j) of section 209; and in making such computation services which do not constitute employment as defined in section 210, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

(5) For purposes of this subsection, wages (determined as provided in paragraph (4) (C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

#### **Penalty for Failure to Report Certain Events**

(f) Any individual in receipt of benefits subject to deduction under subsection (b) or (c), (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event specified therein (other than an event specified in subsection (b) (1) or (c) (1)), who fails to report such occurrence to the Secretary prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred, shall suffer an additional deduction equal to that imposed under subsection (b) or (c), except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month.

#### **Report of Earnings to Secretary**

(g) (1) (A) If an individual is entitled to any monthly insurance benefit under section 202 during any taxable year in which he has

earnings or wages, as computed pursuant to paragraph (4) of subsection (e), in excess of the product of \$100 times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i) beginning with or after the month in which such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection.<sup>70</sup>

(B) If the benefit payments of an individual have been suspended for all months in any taxable year under the provisions of the first sentence of paragraph (3) of subsection (g), no benefit payment shall be made to such individual for any such month in such taxable year after the expiration of the period of three years, three months, and fifteen days following the close of such taxable year unless within such period the individual, or some other person entitled to benefits under this title on the basis of the same wages and self-employment income, files with the Secretary information showing that a benefit for such month is payable to such individual.<sup>71</sup>

(2) If an individual fails to make a report required under paragraph (1), within the time prescribed therein, for any taxable year and any deduction is imposed under subsection (b) (1) by reason of his earnings for such year, he shall suffer additional deductions as follows:

(A) if such failure is the first one with respect to which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 202;

(B) if such failure is the second one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to two times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 202;

(C) if such failure is the third or a subsequent one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to three times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 202;

except that the number of the additional deductions required by this paragraph with respect to a failure to report earnings for a taxable year shall not exceed the number of months in such year for which such individual received and accepted insurance benefits under section 202 and for which deductions are imposed under subsection (b) (1) by reason of his earnings. In determining whether a failure to report earnings is the first or a subsequent failure for any individual, all

<sup>70</sup> Sec. 308 (d) of P. L. 85-840 added clause (ii) in subpar. (A) effective with respect to taxable years beginning after August 1958.

<sup>71</sup> Sec. 308 (d) of P. L. 85-840 inserted "(A)" after (g) (1) and added new subpar. (B) to sec. 203 (g) (1) effective with respect to taxable years beginning after August 1958.

taxable years ending prior to the imposition of the first additional deduction under this paragraph, other than the latest one of such years, shall be disregarded.

(3) If the Secretary determines, on the basis of information obtained by or submitted to him, that it may reasonably be expected that an individual entitled to benefits under section 202 for any taxable year will suffer deductions imposed under subsection (b) (1) by reason of his earnings for such year, the Secretary may, before the close of such taxable year, suspend the payment for each month in such year (or for only such months as the Secretary may specify) of the benefits payable on the basis of such individual's wages and self-employment income; and such suspension shall remain in effect with respect to the benefits for any month until the Secretary has determined whether or not any deduction is imposed for such month under subsection (b). The Secretary is authorized, before the close of the taxable year of an individual entitled to benefits during such year, to request of such individual that he make, at such time or times as the Secretary may specify, a declaration of his estimated earnings for the taxable year and that he furnish to the Secretary such other information with respect to such earnings as the Secretary may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this paragraph that it may reasonably be expected that the individual will suffer deductions imposed under subsection (b) (1) by reason of his earnings for such year. If, after the close of a taxable year of an individual entitled to benefits under section 202 for such year, the Secretary requests such individual to furnish a report of his earnings (as computed pursuant to paragraph (4) of subsection (e)) for such taxable year or any other information with respect to such earnings which the Secretary may specify, and the individual fails to comply with such request, such failure shall in itself constitute justification for a determination that such individual's benefits are subject to deductions under subsection (b) (1) for each month in such taxable year (or only for such months thereof as the Secretary may specify) by reason of his earnings for such year.<sup>72</sup>

#### Circumstances Under Which Deductions and Reductions Not Required

(h) In the case of any individual, deductions by reason of the provisions of subsection (b), (f), or (g) of this section, or the provisions of section 222 (b), shall, notwithstanding such provisions, be made from the benefits to which such individual is entitled<sup>73</sup> only to the extent that such deductions<sup>74</sup> reduce the total amount which would otherwise be paid, on the basis of the same wages and self-employment income, to such individual and the other individuals living in the same household.

(i) [Repealed.]

<sup>72</sup> With respect to the imposition of deductions under subsec. (g), see sec. 103 (1) (2) of the 1954 Amendments, p. 173.

<sup>73</sup> Sec. 205 (k) of P. L. 85-840 deleted the following "and (2) any reduction by reason of the provisions of sec. 224 shall, notwithstanding the provisions of such section, be made with respect to the benefits to which such individual is entitled," effective with respect to monthly benefits under title II of the Social Security Act for August 1958 and succeeding months.

<sup>74</sup> Sec. 205 (k) of P. L. 85-840 deleted the words "and reduction". See footnote 73 for effective date.

**Attainment of Age Seventy-two**

(j) For the purposes of this section, an individual shall be considered as seventy-two years of age during the entire month in which he attains such age.

**Noncovered Remunerative Activity Outside the United States**

(k) An individual shall be considered to be engaged in noncovered remunerative activity outside the United States if he performs services outside the United States as an employee and such services do not constitute employment as defined in section 210 and are not performed in the active military or naval service of the United States, or if he carries on a trade or business outside the United States (other than the performance of service as an employee) the net income or loss of which (1) is not includible in computing his net earnings from self-employment for a taxable year and (2) would not be excluded from net earnings from self-employment, if carried on in the United States, by any of the numbered paragraphs of section 211 (a). When used in the preceding sentence with respect to a trade or business (other than the performance of service as an employee), the term "United States" does not include Puerto Rico or the Virgin Islands in the case of an alien who is not a resident of the United States (including Puerto Rico and the Virgin Islands); and the term "trade or business" shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1954.

**Good Cause for Failure to Make Reports Required**

(l) The failure of an individual to make any report required by subsection (f) or (g) (1) (A) <sup>75</sup> within the time prescribed therein shall not be regarded as such a failure if it is shown to the satisfaction of the Secretary that he had good cause for failing to make such report within such time. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

**Overpayments and Underpayments**

**Sec. 204.** (a) Whenever an error has been made with respect to payments to an individual under this title (including payments made prior to January 1, 1940), proper adjustments shall be made, under regulations prescribed by the Secretary, by increasing or decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by increasing or decreasing subsequent benefits payable with respect to the wages and self-employment income which were the basis of benefits of such deceased individual.

(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault (including payments made prior to January 1, 1940), and where adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience.

<sup>75</sup> Sec. 308 (c) of P. L. 85-840 changed "subsection (f) or (g)" to "subsection (f) or (g) (1) (A)", effective with respect to taxable years beginning after August 1958.



(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.

### **Evidence, Procedure, and Certification for Payment**

**Sec. 205.** (a) The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Upon request by any such individual or upon request by a wife, widow, former wife divorced, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(c) (1) For the purposes of this subsection—

(A) The term “year” means a calendar year when used with respect to wages and a taxable year (as defined in section 211 (e)) when used with respect to self-employment income.

(B) The term “time limitation” means a period of three years, three months, and fifteen days.

(C) The term “survivor” means an individual’s spouse, former wife divorced, child, or parent, who survives such individual.

(2) On the basis of information obtained by or submitted to the Secretary, and after such verification thereof as he deems necessary, the Secretary shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual

or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(3) The Secretary's records shall be evidence for the purpose of proceedings before the Secretary or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

(4) Prior to the expiration of the time limitation following any year the Secretary may, if it is brought to his attention that any entry of wages or self-employment income in his records for such year is erroneous or that any item of wages or self-employment income for such year has been omitted from such records, correct such entry or include such omitted item in his records, as the case may be. After the expiration of the time limitation following any year—

(A) the Secretary's records (with changes, if any, made pursuant to paragraph (5)) of the amounts of wages paid to, and self-employment income derived by, an individual during any period in such year shall be conclusive for the purposes of this title;

(B) the absence of an entry in the Secretary's records as to the wages alleged to have been paid by an employer to an individual during any period in such year shall be presumptive evidence for the purposes of this title that no such alleged wages were paid to such individual in such period; and

(C) the absence of an entry in the Secretary's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive for the purposes of this title that no such alleged self-employment income was derived by such individual in such year unless it is shown that he filed a tax return of his self-employment income for such year before the expiration of the time limitation following such year, in which case the Secretary shall include in his records the self-employment income of such individual for such year.

(5) After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, or self-employment income was derived or alleged to have been derived by, an individual, the Secretary may change or delete any entry with respect to wages or self-employment income in his records of such year for such individual or include in his records of such year for such individual any omitted item of wages or self-employment income but only—

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an indi-

vidual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Secretary's records of the wages paid to, or the self-employment income derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Secretary's decision on any such request shall be given to the individual who made the request;

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this title when they should have been credited under the Railroad Retirement Act, or to enter items transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act when they should have been credited under this title;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform his records to tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, or chapters 2 and 21 of the Internal Revenue Code of 1954 or under regulations made under authority of such title or subchapter or chapter, and to information returns filed by a State pursuant to an agreement under section 218 or regulations of the Secretary thereunder; except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year) shall be included in the Secretary's records pursuant to this subparagraph;

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Secretary;

(H) to include wages paid during any period in such year to an individual by an employer if there is an absence of an entry in the Secretary's records of wages having been paid by such employer to such individual in such period;

(I) to enter items which constitute remuneration for employment under subsection (o), such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 5 (k) (3) of the Railroad Retirement Act of 1937; or

(J) to include self-employment income for any taxable year, up to, but not in excess of, the amount of wages deleted by the Secretary as payments erroneously included in such records as wages paid to such individual, if such income (or net earnings from self-employment), not already included in such records as self-employment income, is included in a return or statement (referred to in subparagraph (F)) filed before the expiration of the time limitation following the taxable year in which such deletion of wages is made.

(6) Written notice of any deletion or reduction under paragraph (4) or (5) shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Secretary of the amount of his wages for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Secretary of the amount of such individual's wages and self-employment income for the period involved.

(7) Upon request in writing (within such period, after any change or refusal of a request for a change of his records pursuant to this subsection, as the Secretary may prescribe), opportunity for hearing with respect to such change or refusal shall be afforded to any individual or his survivor. If a hearing is held pursuant to this paragraph the Secretary shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall include any omitted items, or change or delete any entry, in his records as may be required by such findings and decision.

(8) Decisions of the Secretary under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (g).

(d) For the purpose of any hearing, investigation, or other proceeding authorized or directed under this title, or relative to any other matter within his jurisdiction hereunder, the Secretary shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpoenas of the Secretary shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.

(f) No person so subpoenaed or ordered shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him

to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(g) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) hereof which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) hereof, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions.

(h) The findings and decision of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under section 24 of the Judicial Code of the United States to recover on any claim arising under this title.

(i) Upon final decision of the Secretary, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this title, the Secretary shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Fiscal Service of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Secretary: *Provided*, That where a review of the Secretary's decision is or may be sought under subsection (g) the Secretary may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary.

(j) When it appears to the Secretary that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person.

(k) Any payment made after December 31, 1939, under conditions set forth in subsection (j), any payment made before January 1, 1940, to, or on behalf of, a legally incompetent individual, and any payment made after December 31, 1939, to a legally incompetent individual without knowledge by the Secretary of incompetency prior to certification of payment, if otherwise valid under this title, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

(l) The Secretary is authorized to delegate to any member, officer, or employee of the Department of Health, Education, and Welfare designated by him any of the powers conferred upon him by this section, and is authorized to be represented by his own attorneys in any court in any case or proceeding arising under the provisions of subsection (e).

(m) [Repealed.] <sup>78</sup>

(n) The Secretary may, in his discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals.

#### Crediting of Compensation Under the Railroad Retirement Act

(o) If there is no person who would be entitled, upon application therefor, to an annuity under section 5 of the Railroad Retirement Act of 1937, or to a lump-sum payment under subsection (f) (1) of such section, with respect to the death of an employee (as defined in such Act), then, notwithstanding section 210 (a) (9) of this Act, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 4 of such Act if wages are deemed to have been paid to such employee during such

<sup>78</sup> This subsection was repealed by sec. 101 (b) (2) of the 1950 Amendments. The subject matter now appears in sec. 202 (j) (2) of the Act.

month under subsection (a) or (e) of section 217 of this Act) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this title on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this title, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

#### Special Rules in Case of Federal Service

(p) (1) With respect to service included as employment under section 210 which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of subsection (m) (1) of such section are applicable, the Secretary shall not make determinations as to whether an individual has performed such service, the periods of such service, the amounts of remuneration for such service which constitute wages under the provisions of section 209, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 3122 of the Internal Revenue Code of 1954<sup>77</sup> and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Secretary, to make certification to him with respect to any matter determinable for the Secretary by such head or his agents under this subsection, which the Secretary finds necessary in administering this title.

(3) The provisions of paragraphs (1) and (2) shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of paragraphs (1) and (2) the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of paragraphs (1) and (2) shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at in-

<sup>77</sup> See p. 281.

stallations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of paragraphs (1) and (2) the Secretary of the Treasury shall be deemed to be the head of such instrumentality.

### Representation of Claimants Before the Secretary

**Sec. 206.** The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Secretary, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimant valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary.<sup>78</sup> The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.

### Assignment

**Sec. 207.** The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

### Penalties

**Sec. 208.** Whoever—

(a) for the purpose of causing an increase in any payment authorized to be made under this title, or for the purpose of causing any payment to be made where no payment is authorized

<sup>78</sup> Sec. 309 of P. L. 85-840 deleted "upon filing with the Secretary a certificate of his right to so practice from the presiding judge or clerk of any such court," effective August 28, 1958.



under this title, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to—

(1) whether wages were paid or received for employment (as said terms are defined in this title and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(2) whether net earnings from self-employment (as such term is defined in this title and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(3) whether a person entitled to benefits under this title had earnings in or for a particular period (as determined under section 203 (e) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(b) makes or cause to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this title; or

(c) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this title; or

(d) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this title, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(e) having made application to receive payment under this title for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person;

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.<sup>79</sup>

### Definition of Wages

**Sec. 209.<sup>80</sup>** For the purposes of this title, the term “wages” means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) (1) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding sub-

<sup>79</sup> Sec. 310 of P. L. 85-840 amended sec. 208 in its entirety effective August 28, 1958. See p. 237 for sec. 208 as it read prior to this amendment.

<sup>80</sup> For sec. 209 as it read prior to the 1950 Amendments, see p. 197. For sec. 209 as it read prior to the 1954 Amendments, see p. 209.

sections of this section) equal to \$3,600 with respect to employment has been paid to an individual during any calendar year prior to 1955, is paid to such individual during such calendar year;

(2) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$4,200 with respect to employment has been paid to an individual during any calendar year after 1954 and prior to 1959,<sup>81</sup> is paid to such individual during such calendar year;

(3) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$4,800 with respect to employment has been paid to an individual during any calendar year after 1958, is paid to such individual during such calendar year;<sup>82</sup>

(b) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (1) retirement, or (2) sickness or accident disability, or (3) medical or hospitalization expenses in connection with sickness or accident disability, or (4) death;

(c) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(d) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section 165 (a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501 (a) of the Internal Revenue Code of 1954,<sup>83</sup> unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954, the requirements of sections 401 and 501 (a) of the Internal Revenue Code of 1954;<sup>84</sup>

(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code of

<sup>81</sup> Sec. 102 (a) (1) of P. L. 85-840 inserted the words "and prior to 1959."

<sup>82</sup> Sec. 102 (a) (2) of P. L. 85-840 added par. (3) effective with respect to remuneration paid after 1958.

<sup>83</sup> See pp. 251 and 253 respectively.

<sup>84</sup> See pp. 251 and 253 respectively.

1939, or in the case of a payment after 1954 under section 3101 of the Internal Revenue Code of 1954,<sup>85</sup> or (2) of any payment required from an employee under a State unemployment compensation law;

(g) (1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 210 (f) (5);

(3) Cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 210 (f) (5);

(h) (1) Remuneration paid in any medium other than cash for agricultural labor;

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (A) the cash remuneration paid in such year by the employer to the employee for such labor is \$150 or more, or (B) the employee performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis;<sup>86</sup>

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains retirement age (as defined in section 216 (a)), if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 218 (b) (2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness, or<sup>87</sup>

(j) Remuneration paid by an employer in any quarter to an employee for service described in section 210 (k) (3) (C) (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50.

For purposes of this title, in the case of domestic service described in subsection (g) (2), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations

<sup>85</sup> See p. 263.

<sup>86</sup> Sec. 105 (a) of the 1956 Amendments amended par. (2) in its entirety effective with respect to remuneration paid after 1956. For the provision as it read prior to this amendment see p. 228.

<sup>87</sup> Sec. 1 of P. L. 85-786 added last sentence of 209 (i) effective with respect to remuneration paid after August 27, 1958. See sec. 2 of P. L. 85-786 on p. 189 for conditions and limitations regarding possible retroactive effect of this amendment.

made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to \$1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g) (2).

For purposes of this title, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 210 (m) (1) are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102 (10) of the Servicemen's and Veterans' Survivor Benefits Act.<sup>87a</sup>

### Definition of Employment

**Sec. 210.** For the purposes of this title—

#### Employment

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e)), or (ii) of a foreign subsidiary (as defined in section 3121 (1) of the Internal Revenue Code of 1954)<sup>88</sup> of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954)<sup>89</sup> during any period for which there is in effect an agreement, entered into pursuant to section 3121 (1) of the Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended,<sup>90</sup> or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;<sup>91</sup>

<sup>87a</sup> Now sec. 402 of Chapter 13 of Title 38, U. S. C., see p. 356.

<sup>88</sup> See p. 278.

<sup>89</sup> See p. 321.

<sup>90</sup> See sec. 509 of the Agricultural Act of 1949 as amended on p. 331.

<sup>91</sup> Sec. 311 (a) of P. L. 85-840 deleted former subpar. (A) and redesignated clauses (1) and (11) of former subpar. (B) as new subpars. (A) and (B) respectively, effective with respect to service performed after 1958. Former subpar. (A) read as follows: "(A) service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended."

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 3111 of the Internal Revenue Code of 1954<sup>92</sup> by virtue of any provision of law which specifically refers to such section in granting such exemption;

(6) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939 on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;<sup>93</sup>

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast

<sup>92</sup> See p. 264.

<sup>93</sup> Sec. 104 (b) (1) of the 1956 Amendments amended clause (ii) by adding "a Federal Home Loan Bank," effective, subject to the conditions and limitations in sec. 104 (1) (2) (A) (1), (B) and (D) of the 1956 Amendments (p. 180), with respect to services performed after June 30, 1957.

Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; <sup>94</sup>

(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) in the legislative branch;

(iii) in a penal institution of the United States by an inmate thereof;

(iv) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government; 5 U. S. C., sec. 1052);

(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

(vi) by any individual to whom the Civil Service Retirement Act does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority);

(7) Service (other than service included under an agreement under section 218 and other than service which, under subsection (1), constitutes covered transportation service) performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions;

(8) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501 (c) (3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501 (a) of such Code,<sup>95</sup> but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3121 (k) of the Internal Revenue Code of 1954,<sup>96</sup> is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed by such organization under such section 3121 (k),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) <sup>97</sup> was filed, or

<sup>94</sup> See sec. 115 of the 1954 Amendments on p. 175 for limitation on effectiveness of certain provisions of subpar. (B) and clause (2).

<sup>95</sup> See p. 253.

<sup>96</sup> See p. 275.

<sup>97</sup> Sec. 312 (a) of P. L. 85-840 added "(other than a certificate referred to in clause (iii))," effective with respect to certificates filed under sec. 3121 (k) (1) of the Internal Revenue Code of 1954 (see p. 275), after August 28, 1958.

(iii) who, after the calendar quarter in which the certificate was filed with respect to a group described in paragraph (1) (E) of such section 3121 (k), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in such paragraph (1) (E) with respect to which no certificate is in effect;<sup>98</sup>

(9) Service performed by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1954;<sup>99</sup>

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 of the Internal Revenue Code of 1954,<sup>100</sup> if the remuneration for such service is less than \$50;

(B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

(14) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on

<sup>98</sup> Sec. 312 (a) of P. L. 85-840 added clause (iii) and the material following it in subpar. (B). See footnote 97 for effective date.

<sup>99</sup> See p. 283 for sec. 3231 of the IRC of 1954. Sec. 5 (k) of the Railroad Retirement Act of 1937 provides that this paragraph shall not be operative with respect to certain employees, see p. 243.

<sup>100</sup> See p. 253.

the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(15) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669);

(16) Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced; or

(17) Service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956.

#### Included and Excluded Service

(b) If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (a).

#### American Vessel

(c) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.



**American Aircraft**

(d) The term "American aircraft" means an aircraft registered under the laws of the United States.

**American Employer**

(e) The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing, (3) an individual who is a resident of the United States, (4) a partnership, if two-thirds or more of the partners are residents of the United States, (5) a trust, if all of the trustees are residents of the United States, or (6) a corporation organized under the laws of the United States or of any State.

**Agricultural Labor**

(f) The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land or brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

The provisions of subparagraphs (A) and (B) of paragraph (4) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

#### Farm

(g) The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

#### State

(h) The term "State" includes Alaska, Hawaii, the District of Columbia, and the Virgin Islands; and on and after the effective date specified in section 219 such term includes Puerto Rico.

#### United States

(i) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, the District of Columbia, and the Virgin Islands; and on and after the effective date specified in section 219 such term includes Puerto Rico.

#### Citizen of Puerto Rico

(j) An individual who is a citizen of Puerto Rico (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be considered, for the purposes of this section, as a citizen of the United States prior to the effective date specified in section 219.

#### Employee

(k) The term "employee" means—

- (1) any officer of a corporation; or
- (2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or
- (3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

#### Covered Transportation Service

(1) (1) Except as provided in paragraph (2), all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951;

except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment in connection with the operation of such part of the transportation system acquired by the State or political subdivision,

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such

employee, contain special provisions applicable only to employees described in subparagraph (C).

(3) All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) For the purposes of this subsection—

(A) The term “general retirement system” means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this title, and some of such employees become employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term “political subdivision” includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions.

#### Service in the Uniformed Services

(m) (1) Except as provided in paragraph (4), the term “employment” shall, notwithstanding the provisions of subsection (a) of this section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) The term “active duty” means “active duty” as described in section 102 of the Servicemen’s and Veterans’ Survivor Benefits Act, except that it shall also include “active duty for training” as described in such section.

(3) The term “inactive duty training” means “inactive duty training” as described in such section 102.

(4) (A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 4 of the Railroad Retirement Act of 1937. The Railroad Retirement Board shall notify the Secretary of Health, Education, and Welfare, as provided in section 4 (p) (2) of that Act, with respect to all such service which is so creditable.

(B) In any case where benefits under this title are already payable on the basis of such individual’s wages and self-employment income at

the time such notification (with respect to such individual) is received by the Secretary, the Secretary shall certify no further benefits for payment under this title on the basis of such individual's wages and self-employment income, or shall recompute the amount of any further benefits payable on the basis of such wages and self-employment income, as may be required as a consequence of subparagraph (A) of this paragraph. No payment of a benefit to any person on the basis of such individual's wages and self-employment income, certified by the Secretary prior to the end of the month in which he receives such notification from the Railroad Retirement Board, shall be deemed by reason of this subparagraph to have been an erroneous payment or a payment to which such person was not entitled. The Secretary shall, as soon as possible after the receipt of such notification from the Railroad Retirement Board, advise such Board whether or not any such benefit will be reduced or terminated by reason of subparagraph (A), and if any such benefit will be so reduced or terminated, specify the first month with respect to which such reduction or termination will be effective.

#### Member of a Uniformed Service

(n) The term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 102 (3) of the Servicemen's and Veterans' Survivor Benefits Act), or in one of those services without specification of component, or as a commissioned officer of the Coast and Geodetic Survey or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—

(1) a retired member of any of those services;

(2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;

(3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and

(5) any person while en route to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) who has been provisionally accepted for such duty;  
or

(B) who, under the Universal Military Training and Service Act, has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

### Crew Leader

(o) The term "crew leader" means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. A crew leader shall, with respect to services performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

### Self-Employment

**Sec. 211.** For the purposes of this title—

#### Net Earnings From Self-Employment

(a) The term "net earnings from self-employment" means the gross income, as computed under Subtitle A of the Internal Revenue Code of 1954, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702 (a) (9) of the Internal Revenue Code of 1954, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including live-stock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 35 of the Internal

Revenue Code of 1954) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss (A) which is considered under Subtitle A of the Internal Revenue Code of 1954 as gain or loss from the sale or exchange of a capital asset, (B) from the cutting of timber, or the disposal of timber or coal, if section 1231 of such code is applicable to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 172 of such code shall not be allowed;

(5) (A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife;

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) (A) In the case of any taxable year beginning before the effective date specified in section 219, the term "possession of the United States" when used in section 931 of the Internal Revenue Code of 1954 with respect to citizens of the United States shall include Puerto Rico;

(B) In the case of any taxable year beginning on or after the effective date specified in section 219, a resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 933 of such code;

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed pre-

dominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of such Code.<sup>101</sup>

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 210 (f)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than \$1,800, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than \$1,800 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,200, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,200; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707 (c) of the Internal Revenue Code of 1954<sup>102</sup> applies) is not more than \$1,800, his distributive share of income described in section 702 (a) (9) of such Code<sup>103</sup> derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707 (c) of the Internal Revenue Code of 1954<sup>104</sup> applies) is more than \$1,800 and his distributive share (whether or not distributed) of income described in section 702 (a) (9) of such Code<sup>105</sup> derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,200, his distributive share of income

<sup>101</sup> Sec. 5 (a) of P. L. 85-239 amended par. (7) in its entirety effective, except for purposes of sec. 203 of the Social Security Act, with respect to taxable years ending on or after December 31, 1957. For purposes of sec. 203 of the Social Security Act (other than subsec. (a)), this amendment shall apply only with respect to taxable years beginning after August 1957. For purposes of subsec. (a) of sec. 203, this amendment shall apply only with respect to taxable years of the insured individual ending on or after December 31, 1957. For par. (7) as it read prior to this amendment see p. 232.

<sup>102</sup> See p. 256.

<sup>103</sup> See p. 256.

<sup>104</sup> See p. 256.

<sup>105</sup> See p. 256.



described in such section 702 (a) (9) <sup>106</sup> derived from such trade or business may, at his option, be deemed to be \$1,200.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

#### Self-Employment Income

(b) The term “self-employment income” means the net earnings from self-employment derived by an individual (other than a non-resident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) \$3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and prior to 1959, <sup>107</sup> (i) \$4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958, (i) \$4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; <sup>108</sup> or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

In the case of any taxable year beginning prior to the effective date specified in section 219, an individual who is a citizen of Puerto Rico (but not otherwise a citizen of the United States) and who is not a resident of the United States during such taxable year shall be considered, for the purposes of this subsection, as a nonresident alien individual. An individual who is not a citizen of the United States but who is a resident of the Virgin Islands or (after the effective date specified in section 219) a resident of Puerto Rico shall not, for the purposes of this subsection, be considered to be a nonresident alien individual.

#### Trade or Business

(c) The term “trade or business”, when used with reference to self-employment income or net earnings from self-employment, shall have

<sup>106</sup> See p. 256.

<sup>107</sup> Sec. 102 (b) of P. L. 85-840 inserted “and prior to 1959.”

<sup>108</sup> Sec. 102 (b) of P. L. 85-840 added subpara. (C).

the same meaning as when used in section 162 of the Internal Revenue Code of 1954, except that such term shall not include—

- (1) The performance of the functions of a public office;
- (2) The performance of service by an individual as an employee (other than service described in section 210 (a) (14) (B) performed by an individual who has attained the age of eighteen, service described in section 210 (a) (16), and service described in paragraph (4) of this subsection);
- (3) The performance of service by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1954;<sup>109</sup>
- (4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or
- (5) The performance of service by an individual in the exercise of his profession as a doctor of medicine or Christian Science practitioner; or the performance of such service by a partnership.

The provisions of paragraph (4) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual during the period for which a certificate filed by such individual under section 1402 (e) of the Internal Revenue Code of 1954<sup>110</sup> is in effect. The provisions of paragraph (5) shall not apply to service performed by an individual in the exercise of his profession as a Christian Science practitioner during the period for which a certificate filed by him under section 1402 (e) of the Internal Revenue Code of 1954 is in effect.

#### Partnership and Partner

(d) The term “partnership” and the term “partner” shall have the same meaning as when used in subchapter K of chapter 1 of the Internal Revenue Code of 1954.

#### Taxable Year

(e) The term “taxable year” shall have the same meaning as when used in subtitle A of the Internal Revenue Code of 1954; and the taxable year of any individual shall be a calendar year unless he has a different taxable year for the purposes of subtitle A of such code, in which case his taxable year for the purposes of this title shall be the same as his taxable year under such subtitle A.

#### Partner's Taxable Year Ending as Result of Death

(f) In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the

<sup>109</sup> See p. 283.

<sup>110</sup> See p. 260.

partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) the term “deceased partner’s distributive share” includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest.<sup>111</sup>

### Crediting of Self-Employment Income to Calendar Quarters

**Sec. 212.** For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year shall be credited to calendar quarters as follows:

(a) In the case of a taxable year which is a calendar year the self-employment income of such taxable year shall be credited equally to each quarter of such calendar year.

(b) In the case of any other taxable year the self-employment income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

### Quarter and Quarter of Coverage

#### Definitions

**Sec. 213. (a)** For the purpose of this title—

(1) The term “quarter”, and the term “calendar quarter”, means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2) (A) The term “quarter of coverage” means, in the case of any quarter occurring prior to 1951, a quarter in which the individual has been paid \$50 or more in wages, except that no quarter any part of which was included in a period of disability (as defined in section 216 (i)), other than the initial quarter of such period, shall be a quarter of coverage. In the case of any individual who has been paid, in a calendar year prior to 1951, \$3,000 or more in wages, each quarter of such year following his first quarter of coverage shall be deemed a quarter of coverage, excepting any quarter in such year in which such individual died or became entitled to a primary insurance benefit and any quarter succeeding such quarter in which he died or became so entitled, and excepting any quarter any part of which was included in a period of disability, other than the initial quarter of such period.

(B) The term “quarter of coverage” means, in the case of a

<sup>111</sup> Sec. 313 (a) of P. L. 85-840 added subsec. (f) effective (1) with respect to individuals who die after August 28, 1958, and (2) with respect to any individual who died after 1955 and on or before August 28, 1958, but only if the requirement of sec. 403 (b) (2) of P. L. 85-840 (see p. 193) are met.

quarter occurring after 1950, a quarter in which the individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with \$100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958,<sup>112</sup> each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before 1959, or \$4,800 in the case of a taxable year ending after 1958,<sup>113</sup> each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954, then, subject to clause (i), (a) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but <sup>114</sup>are less than \$200; (b) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$200 but are less than \$300; (c) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (d) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more; and

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.

If, in the case of any individual who has attained retirement age or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216 (i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters

<sup>112</sup> Sec. 102 (c) of P. L. 85-840 inserted the words "and before 1959, or \$4,800 in the case of a calendar year after 1958," effective August 28, 1958.

<sup>113</sup> See footnote 112.

<sup>114</sup> Sec. 105 (c) of the 1956 Amendments inserted the phrase "equal or exceed \$100 but," after the words "wages."

of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters.

#### **Crediting of Wages Paid in 1937**

(b) With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than \$100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than \$100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

### **Insured Status for Purposes of Old-Age and Survivors Insurance Benefits**

**Sec. 214.** For the purposes of this title—

#### **Fully Insured Individual**

(a) (1) In the case of any individual who died prior to September 1, 1950, the term “fully insured individual” means any individual who had not less than one quarter of coverage (whenever acquired) for each two of the quarters elapsing after 1936, or after the quarter in which he attained the age of twenty-one, whichever is later, and up to but excluding the quarter in which he attained retirement age, or died, whichever first occurred, except that in no case shall an individual be a fully insured individual unless he has at least six quarters of coverage.<sup>115</sup>

(2) In the case of any individual who did not die prior to September 1, 1950, the term “fully insured individual” means any individual who had not less than—

(A) one quarter of coverage (whether acquired before or after such day) for each two of the quarters elapsing after 1950, or after the quarter in which he attained the age of twenty-one, whichever is later, and up to but excluding the quarter in which he attained retirement age, or died, whichever first occurred, except that in no case shall an individual be a fully insured individual unless he has at least six quarters of coverage; or

(B) forty quarters of coverage, not counting as an elapsed quarter for purposes of subparagraph (A) any quarter any part of which was included in a period of disability (as defined in section 216 (1)) unless such quarter was a quarter of coverage.

(3) In the case of any individual who did not die prior to January 1, 1955, the term “fully insured individual” means any individual

<sup>115</sup> The 1954 Amendments added a provision whereby an individual who died uninsured prior to September 1, 1950, and who had at least 6 quarters of coverage is deemed to be a fully insured individual. The provision is applicable only in the case of monthly benefits under sec. 202 of the Act for months after August 1954 on the basis of applications filed after August 1954. (See sec. 109 of the 1954 Amendments, p. 174.)

who meets the requirements of paragraph (2) and, in addition, any individual with respect to whom all but four of the quarters elapsing after 1954 and prior to (i) July 1, 1957, or (ii) if later, the quarter in which he attained retirement age or died, whichever first occurred, are quarters of coverage, but only if not fewer than six of such quarters so elapsing are quarters of coverage.<sup>115a</sup>

(4) When the number of elapsed quarters specified in paragraph (1) or (2) (A) is an odd number, for purposes of such paragraph such number shall be reduced by one.

#### Currently Insured Individual

(b) The term "currently insured individual" means any individual who has not less than six quarters of coverage during the thirteen-quarter period ending with (1) the quarter in which he died, (2) the quarter in which he became entitled to old-age insurance benefits, (3) the quarter in which he became entitled to primary insurance benefits under this title as in effect prior to the enactment of this section, or (4) in the case of any individual entitled to disability insurance benefits, the quarter in which he most recently became entitled to disability insurance benefits,<sup>116</sup> not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage.<sup>117</sup>

#### Computation of Primary Insurance Amount

**Sec. 215.** For the purposes of this title—

(a) Subject to the conditions specified in subsections (b), (c), and (d) of this section, the primary insurance amount of an insured individual shall be whichever of the following is the largest:

(1) The amount in column IV on the line on which in column III of the following table appears his average monthly wage (as determined under subsection (b));

(2) The amount in column IV on the line on which in column II of the following table appears his primary insurance amount (as determined under subsection (c));

(3) The amount in column IV on the line on which in column I of the following table appears his primary insurance benefit (as determined under subsection (d)); or

(4) In the case of an individual who was entitled to a disability insurance benefit for the month before the month in which he became entitled to old-age insurance benefits or died, the amount in column IV which is equal to his disability insurance benefit.<sup>118, 119</sup>

<sup>115a</sup> See footnote 112.

<sup>116</sup> Sec. 205 (1) of P. L. 85-840 added par. (4) effective with respect to monthly benefits for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>117</sup> For purposes of determining when a currently insured status exists in certain cases of husband's or widower's benefits, see secs. 113 (c) and (d) of the 1954 Amendments, p. 175.

<sup>118</sup> Sec. 101 (a) of P. L. 85-840 amended subsec. 215 (a) in its entirety effective in the case of monthly benefits for months after December 1958, and in the case of lump-sum death payments with respect to deaths occurring after December 1958. For subsec. 215 (a) as it read prior to this amendment, see p. 238.

<sup>119</sup> See sec. 101 (h) of P. L. 85-840 on p. 190 for primary insurance amount for certain disability insurance beneficiaries.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1954 Act)		III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—		Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203 (a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—	At least—	But not more than—	At least—	But not more than—		
-----	\$10.00	-----	\$30.00	-----	\$54	\$33	\$53.00
\$10.01	10.48	\$30.10	31.00	\$55	56	34	54.00
10.49	11.00	31.10	32.00	57	58	35	55.00
11.01	11.48	32.10	33.00	59	60	36	56.00
11.49	12.00	33.10	34.00	61	61	37	57.00
12.01	12.48	34.10	35.00	62	63	38	58.00
12.49	13.00	35.10	36.00	64	65	39	59.00
13.01	13.48	36.10	37.00	66	67	40	60.00
13.49	14.00	37.10	38.00	68	69	41	61.50
14.01	14.48	38.10	39.00	70	70	42	63.00
14.49	15.00	39.10	40.00	71	72	43	64.50
15.01	15.60	40.10	41.00	73	74	44	66.00
15.61	16.20	41.10	42.00	75	76	45	67.50
16.21	16.84	42.10	43.00	77	78	46	69.00
16.85	17.60	43.10	44.00	79	80	47	70.50
17.61	18.40	44.10	45.00	81	81	48	72.00
18.41	19.24	45.10	46.00	82	83	49	73.50
19.25	20.00	46.10	47.00	84	85	50	75.00
20.01	20.64	47.10	48.00	86	87	51	76.50
20.65	21.28	48.10	49.00	88	89	52	78.00
21.29	21.88	49.10	50.00	90	90	53	79.50
21.89	22.28	50.10	50.90	91	92	54	81.00
22.29	22.68	51.00	51.80	93	94	55	82.50
22.69	23.08	51.90	52.80	95	96	56	84.00
23.09	23.44	52.90	53.70	97	97	57	85.50
23.45	23.76	53.80	54.60	98	98	58	87.00
23.77	24.20	54.70	55.60	100	101	59	88.50
24.21	24.60	55.70	56.50	102	102	60	90.00
24.61	25.00	56.60	57.40	103	104	61	91.50
25.01	25.48	57.50	58.40	105	106	62	93.00
25.49	25.92	58.50	59.30	107	107	63	94.50
25.93	26.40	59.40	60.20	108	109	64	96.00
26.41	26.94	60.30	61.20	110	113	65	97.50
26.95	27.46	61.30	62.10	114	118	66	99.00
27.47	28.00	62.20	63.00	119	122	67	100.50
28.01	28.68	63.10	64.00	123	127	68	102.00
28.69	29.25	64.10	64.90	128	132	69	105.60
29.26	29.68	65.00	65.80	133	136	70	108.80
29.69	30.36	65.90	66.80	137	141	71	112.80
30.37	30.92	66.90	67.70	142	146	72	116.80
30.93	31.36	67.80	68.60	147	150	73	120.00
31.37	32.00	68.70	69.60	151	155	74	124.00
32.01	32.60	69.70	70.50	156	160	75	128.00
32.61	33.20	70.60	71.40	161	164	76	131.20
33.21	33.88	71.50	72.40	165	169	77	135.20
33.89	34.50	72.50	73.30	170	174	78	139.20
34.51	35.00	73.40	74.20	175	178	79	142.40
35.01	35.80	74.30	75.20	179	183	80	146.40
35.81	36.40	75.30	76.10	184	188	81	150.40
36.41	37.08	76.20	77.10	189	193	82	154.40
37.09	37.60	77.20	78.00	194	197	83	157.60
37.61	38.20	78.10	78.90	198	202	84	161.60
38.21	39.12	79.00	79.90	203	207	85	165.60
39.13	39.65	80.00	80.80	208	211	86	168.80
39.69	40.33	80.90	81.70	212	216	87	172.80
40.34	41.12	81.80	82.70	217	221	88	176.80
41.13	41.76	82.80	83.60	222	225	89	180.00
41.77	42.44	83.70	84.50	226	230	90	184.00
42.45	43.20	84.60	85.50	231	235	91	188.00
43.21	43.76	85.60	86.40	236	239	92	191.20
43.77	44.44	86.50	87.30	240	244	93	195.20
44.45	44.88	87.40	88.30	245	249	94	199.20

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1954 Act)		III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—		Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203 (a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—	At least—	But not more than—	At least—	But not more than—		
\$44.89	\$45.60	\$ 88.40	\$ 89.20	\$250	\$253	\$ 95	\$202.40
		89.30	90.10	254	258	96	206.40
		90.20	91.10	259	263	97	210.40
		91.20	92.00	264	267	98	213.60
		92.10	92.90	268	272	99	217.60
		93.00	93.90	273	277	100	221.60
		94.00	94.80	278	281	101	224.80
		94.90	95.80	282	286	102	228.80
		95.90	96.70	287	291	103	232.80
		96.80	97.60	292	295	104	236.00
		97.70	98.60	296	300	105	240.00
		98.70	99.50	301	305	106	244.00
		99.60	100.40	306	309	107	247.20
		100.50	101.40	310	314	108	251.20
		101.50	102.30	315	319	109	254.00
		102.40	103.20	320	323	110	254.00
		103.30	104.20	324	328	111	254.00
		104.30	105.10	329	333	112	254.00
		105.20	106.00	334	337	113	254.00
		106.10	107.00	338	342	114	254.00
		107.10	107.90	343	347	115	254.00
		108.00	108.50	348	351	116	254.00
				352	356	117	254.00
				357	361	118	254.00
				362	365	119	254.00
				366	370	120	254.00
				371	375	121	254.00
				376	379	122	254.00
				380	384	123	254.00
				385	389	124	254.00
				390	393	125	254.00
				394	398	126	254.00
				399	400	127	254.00

## Average Monthly Wage

(b) (1) For the purposes of column III of the table appearing in subsection (a) of this section,<sup>120</sup> an individual's "average monthly wage" shall be the quotient obtained by dividing the total of his wages and self-employment income after his starting date (determined under paragraph (2)) and prior to his closing date (determined under paragraph (3)), by the number of months elapsing after such starting date and prior to such closing date, excluding from such elapsed months—

(A) the months in any year prior to the year in which he attained the age of twenty-two if less than two quarters of such prior year were quarters of coverage, and

<sup>120</sup> Sec. 101 (b) (1) of P. L. 85-840 added the phrase "For the purpose of column III of the table appearing in subsection (a) of this section," effective in the case of monthly benefits for months after December 1958, and in the case of lump-sum death payments with respect to deaths occurring after December 1958.



(B) the months in any year any part of which was included in a period of disability except the months in the year in which such period of disability began if their inclusion in such elapsed months (together with the inclusion of the wages paid in and self-employment income credited to such year) will result in a higher primary insurance amount.

Notwithstanding the preceding provisions of this paragraph when the number of the elapsed months computed under such provisions (including a computation after the application of paragraph (4)) is less than eighteen, it shall be increased to eighteen.<sup>121</sup>

(2) An individual's "starting date" shall be—

(A) December 31, 1950, or

(B) if later, the last day of the year in which he attains the age of twenty-one,

whichever results in the higher primary insurance amount.<sup>122</sup>

(3) An individual's "closing date" shall be whichever of the following results in the higher primary insurance amount:

(A) the first day of the year in which he died or became entitled to old-age insurance benefits, whichever first occurred; or

(B) the first day of the first year in which he both was fully insured and had attained retirement age:<sup>123</sup>

except that if the Secretary determines, on the basis of the evidence available to him at the time of the computation of the individual's primary insurance amount with respect to which such closing date is applicable, that it would result in a higher primary insurance amount for such individual, his closing date shall be the first day of the year following the year referred to in subparagraph (A).<sup>124</sup>

(4) In the case of any individual, the Secretary shall determine the five or fewer full calendar years after his starting date and prior to his closing date which, if the months of such years and his wages and self-employment income for such years were excluded in computing his average monthly wage, would produce the highest primary insurance amount. Such months and such wages and self-employment income shall be excluded for purposes of computing such individual's average monthly wage.<sup>125</sup>

(5) The provisions of this subsection shall be applicable only in the case of an individual with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage, and—

(A) who becomes entitled to benefits under section 202 (a) or section 223 after December 1958, or

(B) who dies after such month without being entitled to benefits under such section 202 (a) or section 223, or

<sup>121</sup> Sec. 115 (a) of the 1956 Amendments amended subsec. 215 (b) (1) in its entirety, effective after August 1, 1956, under the conditions and limitations set out in sec. 115 (d) of the 1956 Amendments, p. 183. See p. 229, for 215 (b) (1) as it read prior to the 1956 Amendments.

<sup>122</sup> Special starting and closing dates for certain cases of death or entitlement to old-age benefits in 1956 are provided in sec. 102 (e) (6) of the 1954 Amendments, p. 169 and for certain cases of death or entitlement to old-age benefits in 1956 in sec. 110 of the 1956 Amendments, p. 186.

<sup>123</sup> Special provisions relating to retirement age for women for purposes of subpar. (B) appear in sec. 102 (b) (3) of the 1956 Amendments, p. 179.

<sup>124</sup> See footnote 122.

<sup>125</sup> Sec. 109 (a) of the 1956 Amendments amended par. (4) in its entirety applicable in the case of monthly benefits and lump-sum death payments under sec. 202 of the Act subject to the conditions and limitations in sec. 109 (b) of the 1956 Amendments, p. 181. For par. (4) as it read prior to this amendment, see p. 229.

(C) who files an application for a recomputation under section 215 (f) (2) (A) after such month and is (or would, but for the provisions of section 215 (f) (6), be) entitled to have his primary insurance amount recomputed under such section, or

(D) who dies after such month and whose survivors are (or would, but for the provisions of section 215 (f) (6), be) entitled to a recomputation of his primary insurance amount under section 215 (f) (4); or

(E) who files an application for a recomputation under subparagraph (B) of section 102 (f) (2) of the Social Security Amendments of 1954 after such month and is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled to have his primary insurance amount recomputed under such subparagraph.<sup>126, 127</sup>

#### Primary Insurance Amount Under 1954 Act

(c) (1) For the purposes of column II of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed as provided in, and subject to the limitations specified in, (A) this section as in effect prior to the enactment of the Social Security Amendments of 1958, and (B) the applicable provisions of the Social Security Amendments of 1954.

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) who became entitled to benefits under section 202 (a) or section 223 or died prior to January 1959, and

(B) to whom the provisions of paragraph (5) of subsection (b) are not applicable.<sup>128</sup>

#### Primary Insurance Benefit Under 1939 Act

(d) (1) For the purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as provided in this title as in effect prior to the enactment of the Social Security Act Amendments of 1950, except that—

(A) In the computation of such benefit, such individual's average monthly wage shall (in lieu of being determined under section 209 (f) of such title as in effect prior to the enactment of such amendments) be determined as provided in subsection (b) of this section (but without regard to paragraph (5) thereof), except that his starting date shall be December 31, 1936.

(B) For purposes of such computation, the date he became entitled to old-age insurance benefits shall be deemed to be the date he became entitled to primary insurance benefits.

<sup>126</sup> Sec. 101 (b) (2) of P. L. 85-840 added par. (5) to subsec. 215 (b) effective in the case of monthly benefits for months after December 1958, and in the case of lump-sum death payments with respect to deaths occurring after December 1958.

<sup>127</sup> See sec. 101 (1) of P. L. 85-840, p. 190, for saving provision when benefits are payable retroactively before January 1959.

<sup>128</sup> Sec. 101 (c) of P. L. 85-840 amended subsec. 215 (c) in its entirety effective in the case of monthly benefits for months after December 1958, and in the case of lump-sum death payments, with respect to deaths occurring after December 1958. For subsec. 215 (c) as it read prior to this amendment see p. 233.

(C) The 1 per centum addition provided for in section 209 (e) (2) of this Act as in effect prior to the enactment of the Social Security Act Amendments of 1950 shall be applicable only with respect to calendar years prior to 1951, except that any wages paid in any year prior to such year any part of which was included in a period of disability shall not be counted. Notwithstanding the preceding sentence, the wages paid in the year in which such period of disability began shall be counted if the counting of such wages would result in a higher primary insurance amount.

(D) The provisions of subsection (e) shall be applicable to such computation.

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) with respect to whom at least one of the quarters elapsing prior to 1951 is a quarter of coverage;

(B) who meets the requirements of any of the subparagraphs of paragraph (5) of subsection (b) of this section; and

(C) who attained age 22 after 1950 and with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage, or who attained such age before 1951.<sup>129</sup>

#### Certain Wages and Self-Employment Income Not to be Counted

(e) For the purposes of subsections (b) and (d)<sup>130</sup>—

(1) in computing an individual's average monthly wage there shall not be counted the excess over \$3,600 in the case of any calendar year after 1950 and before 1955, the excess over \$4,200 in the case of any calendar year after 1954 and before 1959, and the excess over \$4,800 in the case of any calendar year after 1958,<sup>131</sup> of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 212);

(2) if an individual's average monthly wage computed under subsection (b) or for the purposes of subsection (d)<sup>132</sup> is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1;

(3) if an individual's closing date is determined under paragraph (3) (A) of subsection (b) and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he becomes entitled to old-age insurance benefits, there shall not be counted, in determining his average monthly wage, his self-employment income in such taxable year, except as provided in section 215 (f) (3) (C); and

(4) in computing an individual's average monthly wage, there shall not be counted—

(A) any wages paid such individual in any year any part of which was included in a period of disability, or

<sup>129</sup> Sec. 101 (d) of P. L. 85-840 amended subsec. 215 (d) in its entirety, effective in the case of monthly benefits for months after December 1953, and in the case of lump-sum death payments with respect to deaths occurring after December 1953. For sec. 215 (d) as it read prior to amendment, see p. 240.

<sup>130</sup> Sec. 102 (d) (2) of P. L. 85-840 changed "(d) (4)" to "(d)" effective August 28, 1958.

<sup>131</sup> Sec. 102 (d) (1) of P. L. 85-840 inserted the words "and before 1959, and the excess over \$4,800 in the case of any calendar year after 1958," effective August 28, 1958.

<sup>132</sup> See footnote 130.

(B) any self-employment income of such individual credited pursuant to section 212 to any year any part of which was included in a period of disability, unless the months of such year are included as elapsed months pursuant to section 215 (b) (1) (B).<sup>133</sup>

### Recomputation of Benefits

(f) (1) After an individual's primary insurance amount has been determined under this section, there shall be no recomputation of such individual's primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 217 (b).<sup>134</sup>

(2) (A) Upon application filed after 1954 by an individual entitled to old-age insurance benefits, the Secretary shall recompute his primary insurance amount if—

(i) he has not less than six quarters of coverage in the period after 1950 and prior to the quarter in which such application is filed,

(ii) he has wages and self-employment income of more than \$1,200 in a calendar year which occurs after 1953 (not taking into account any year prior to the calendar year in which the last previous recomputation, if any, of his primary insurance amount was effective) and after the year in which he became (without the application of section 202 (j) (1)) entitled to old-age insurance benefits or filed an application for recomputation (to which he is entitled) under section 102 (e) (5) (B) or 102 (f) (2) (B) of the Social Security Amendments of 1954, whichever of such events is the latest, and

(iii) he filed such application no earlier than six months after such calendar year referred to in clause (ii) in which he had such wages and self-employment income.

Such recomputation shall be effective for and after the twelfth month before the month in which he filed such application for recomputation but in no event earlier than the month following such calendar year referred to in clause (ii). For the purposes of this subparagraph an individual's self-employment income shall be allocated to calendar quarters in accordance with section 212.

(B) A recomputation pursuant to subparagraph (A) shall be made as provided in subsection (a) of this section and as though the individual first became entitled to old-age insurance benefits in the month in which he filed the application for such recomputation, but only if the provisions of subsection (b) (4) were not applicable to the last previous computation of his primary insurance amount. If the provisions of subsection (b) (4) were applicable to such previous computation, the recomputation under subparagraph (A) of this paragraph shall be made only as provided in subsection (a) (1) (other than subparagraph (B) thereof) and for such purposes his average monthly wage shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed the applica-

<sup>133</sup> Sec. 115 (c) of the 1956 Amendments amended par. (4) in its entirety effective August 1, 1956, subject to the conditions and limitations in sec. 115 (d) of the 1956 Amendments p. 183. For par. (4) as it read prior to amendment, see p. 230.

<sup>134</sup> See sec. 102 (e) (5), p. 168, and sec. 102 (f) (2) (B) at p. 170 of the 1954 Amendments for recomputations under special circumstances.

tion for recomputation under subparagraph (A), except that, of the provisions of paragraph (3) of subsection (b), only the provisions of subparagraph (A) thereof shall be applicable.<sup>135</sup>

(3) (A) Upon application by an individual—

(i) who became (without the application of section 202 (j) (1)) entitled to old-age insurance benefits under section 202 (a) after August 1954, or

(ii) whose primary insurance amount was recomputed under section 102 (e) (5) or 102 (f) (2) (B) of the Social Security Amendments of 1954, or

(iii) whose primary insurance amount was recomputed as provided in the first sentence of paragraph (2) (B) of this subsection on the basis of an application filed after August 1954,

the Secretary shall recompute his primary insurance amount if such application is filed after the year in which he became entitled to old-age insurance benefits or in which he filed his application for the last recomputation (to which he was entitled) of his primary insurance amount under any provision of law referred to in clause (ii) or (iii) of this sentence, whichever is the later. Such recomputation under this subparagraph shall be made in the manner provided in the preceding subsections of this section for computation of his primary insurance amount, except that his closing date for purposes of subsection (b) shall be the first day of the year following the year in which he became entitled to old-age insurance benefits or in which he filed his application for the last recomputation (to which he was entitled) of his primary insurance amount under any provision of law referred to in clause (ii) or (iii) of the preceding sentence, whichever is the later. Such recomputation under this subparagraph shall be effective for and after the first month for which his last previous computation of his primary insurance amount was effective, but in no event for any month prior to the twenty-fourth month before the month in which the application for such recomputation is filed.

(B) In the case of an individual who dies after August 1954—

(i) who, at the time of death, was not entitled to old-age insurance benefits under section 202 (a), or who became entitled to old-age insurance benefits under section 202 (a) after August 1954, or whose primary insurance amount was recomputed under paragraph (2) or (4) of this subsection, or section 102 (e) (5) or section 102 (f) (2) (B) of the Social Security Amendments of 1954, on the basis of an application filed after August 1954; and

(ii) with respect to whom the last previous computation or recomputation of his primary insurance amount was based upon a closing date determined under subparagraph (A) or (B) of subsection (b) (3) of this section,

the Secretary shall recompute his primary insurance amount upon the filing of an application by a person entitled to monthly benefits or a lump-sum death payment on the basis of his wages and self-employment income. Such recomputation shall be made in the manner provided in the preceding subsections of this section for computation of such amount, except that his closing date for purposes of subsection

<sup>135</sup> Sec. 102 (e) (2) of the 1954 Amendments amended sec. 215 (f) (2) in its entirety, effective with respect to applications for recomputations filed after 1954. See sec. 102 (e) (5) of the 1954 Amendments, p. 168, preserving right to recomputation under deleted provision in certain cases.

(b) shall be the day following the year of death in case he died without becoming entitled to old-age insurance benefits, or, in case he was entitled to old-age insurance benefits, the day following the year in which was filed the application for the last previous computation of his primary insurance amount or in which the individual died, whichever first occurred. In the case of monthly benefits, such recomputation shall be effective for and after the month in which the person entitled to such monthly benefits became so entitled, but in no event for any month prior to the twenty-fourth month before the month in which the application for such recomputation is filed.

(C) If an individual's closing date is determined under paragraph (3) (A) of subsection (b) of this section and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he became entitled to old-age insurance benefits, the Secretary shall recompute his primary insurance amount after the close of such taxable year, taking into account only such self-employment income in such taxable year as is, pursuant to section 212, allocated to calendar quarters prior to such closing date. Such recomputation shall be effective for and after the first month in which he became entitled to old-age insurance benefits.<sup>136</sup>

(4) Upon the death after 1954 of an individual entitled to old-age insurance benefits, if any person is entitled to monthly benefits, or to a lump-sum death payment, on the basis of the wages and self-employment income of such individual, the Secretary shall recompute the decedent's primary insurance amount, but only if—

(A) the decedent would have been entitled to a recomputation under paragraph (2) (A) (without the application of clause (iii) thereof) if he had filed application therefor in the month in which he died; or

(B) the decedent during his lifetime was paid compensation which was treated under section 205 (o) as remuneration for employment.

If the recomputation is permitted by subparagraph (A) the recomputation shall be made (if at all) as though he had filed application for a recomputation under paragraph (2) (A) in the month in which he died, except that such recomputation shall include any compensation (described in section 205 (o)) paid to him prior to the closing date which would have been applicable under such paragraph. If recomputation is permitted by subparagraph (B) the recomputation shall take into account only the wages and self-employment income which were taken into account in the last previous computation of his primary insurance amount and the compensation (described in section 205 (o)) paid to him prior to the closing date applicable to such computation. If both of the preceding sentences are applicable to an individual,

<sup>136</sup> Sec. 215 (f) (3) was added by sec. 102 (e) (3) of the 1954 Amendments. Clauses (A) and (B) thereof apply only in the case of applications for recomputation filed, or deaths occurring, after August 1954. Clause (C) thereof applies only in the case of monthly benefits based on the wages and self-employment income of an individual who does not become entitled to old-age insurance benefits under sec. 202 (a) of the Social Security Act until after August 1954, or who dies after August 1954 without becoming entitled to such benefits, or who files an application after August 1954 and is entitled to a recomputation under par. (2) or (4) of sec. 215 (f) of the Social Security Act as amended by the 1954 Amendments, or who is entitled to a recomputation under sec. 102 (f) (2) (B) of the 1954 Amendments (see p. 170), or who is entitled to a recomputation under sec. 102 (e) (5) of the 1954 Amendments (see p. 168). For sec. 215 (f) (3) as it read prior to the 1954 Amendments, see p. 220. Under certain conditions, sec. 102 (e) (3) of the 1954 Amendments preserves the right to a recomputation under sec. 215 (f) (3) prior to the 1954 Amendments; see p. 170.

only the recomputation which results in the larger primary insurance amount shall be made.<sup>137</sup>

(5) In the case of any individual who became entitled to old-age insurance benefits in 1952 or in a taxable year which began in 1952 (and without the application of section 202 (j) (1)), or who died in 1952 or in a taxable year which began in 1952 but did not become entitled to such benefits prior to 1952, and who had self-employment income for a taxable year which ended within or with 1952 or which began in 1952, then upon application filed after the close of such taxable year by such individual or (if he died without filing such application) by a person entitled to monthly benefits on the basis of such individual's wages and self-employment income, the Secretary shall recompute such individual's primary insurance amount. Such recomputation shall be made in the manner provided in the preceding subsections of this section (other than subsection (b) (4) (A))<sup>138</sup> for computation of such amount, except that (A) the self-employment income closing date shall be the day following the quarter with or within which such taxable year ended, and (B) the self-employment income for any subsequent taxable year shall not be taken into account. Such recomputation shall be effective (A) in the case of an application filed by such individual, for and after the first month in which he became entitled to old-age insurance benefits, and (B) in the case of an application filed by any other person, for and after the month in which such person who filed such application for recomputation became entitled to such monthly benefits. No recomputation under this paragraph pursuant to an application filed after such individual's death shall affect the amount of the lump-sum death payment under subsection (i) of section 202, and no such recomputation shall render erroneous any such payment certified by the Secretary prior to the effective date of the recomputation.

(6) Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount.

#### Rounding of Benefits

(g) The amount of any primary insurance amount and the amount of any monthly benefit computed under section 202 or 223 which (after reduction under section 203 (a))<sup>139</sup> is not a multiple of \$0.10 shall be raised to the next higher multiple of \$0.10.

#### Other Definitions

**Sec. 216.** For the purposes of this title—

##### Retirement Age

(a) The term "retirement age" means—

<sup>137</sup> Sec. 215 (f) (4) was amended by sec. 102 (e) (4) of the 1954 Amendments and applies only in the case of deaths after 1954. For sec. 215 (f) (4) as it read prior to the 1954 Amendments, see p. 220. Within certain limitations, sec. 102 (e) (5) of the 1954 Amendments preserves the right to a recomputation under sec. 215 (f) (4) prior to the 1954 Amendments; see p. 168.

<sup>138</sup> This reference was to a provision which prohibited inclusion of self-employment income in any taxable year ending in or after the month in which the individual died or became entitled to old-age insurance benefits, whichever first occurs. This provision was repealed by the 1954 Amendments.

<sup>139</sup> Sec. 205 (m) of P. L. 85-840 changed "sections 203 (a) and 224," to "section 203 (a)," effective with respect to monthly benefits for August 1958 and succeeding months.

- (1) in the case of a man, age sixty-five, or
- (2) in the case of a woman, age sixty-two.<sup>140</sup>

#### Wife

(b) The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than three years immediately preceding the day on which her application is filed, or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 202, or (B) had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.<sup>141</sup>

#### Widow

(c) The term "widow" (except when used in section 202 (i)) means the surviving wife of an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen,<sup>142</sup> (4) she was married to him at the time both of them legally adopted a child under the age of eighteen, (5) she was married to him for a period of not less than one year immediately prior to the day on which he died, or (6) in the month prior to the month of her marriage to him (A) she was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 202, or (B) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.<sup>143</sup>

#### Former Wife Divorced

(d) The term "former wife divorced" means a woman divorced from an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, or<sup>144</sup> (4) she was married to him at the time both of them legally adopted a child under the age of eighteen.

<sup>140</sup> See sec. 102 (b) of the 1956 Amendments, p. 179, setting conditions and limitations regarding the lowering of retirement age for women made by sec. 102 (a) of the 1956 Amendments.

<sup>141</sup> Sec. 301 (d) of P. L. 85-849 added par. (2) effective with respect to monthly benefits under sec. 202 of the Social Security Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>142</sup> Sec. 301 (b) (2) of P. L. 85-849 redesignated pars. (3) and (4), as (4) and (5) respectively and inserted a new par. (3), effective with respect to monthly benefits under sec. 202 of the Act for months beginning after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>143</sup> Sec. 301 (b) (2) of P. L. 85-849 added new par. (6). See footnote 142 for effective date.

<sup>144</sup> Sec. 301 (e) of P. L. 85-849 redesignated former par. (3) as (4), and inserted a new par. (3), effective with respect to monthly benefits under sec. 202 of the Act for months beginning after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.



### Child

(e) The term "child" means (1) the child or legally adopted child of an individual, and (2) in the case of a living individual, a stepchild who has been such stepchild for not less than three years immediately preceding the day on which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild who has been such stepchild for not less than one year immediately preceding the day on which such individual died. For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but before the end of two years after the day on which such individual died or the date of enactment of this Act; except that this sentence shall not apply if at the time of such individual's death such person was receiving regular contributions toward his support from someone other than such individual or his spouse, or from any public or private welfare organization which furnishes services or assistance for children.<sup>145</sup>

### Husband

(f) The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than three years immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 202, or (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.<sup>146</sup>

### Widower

(g) The term "widower" (except when used in section 202 (i)) means the surviving husband of an individual, but only if (1) he is the father of her son or daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen,<sup>147</sup> (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than one year immediately prior to the day on which she died, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on applica-

<sup>145</sup> Sec. 302 (a) of P. L. 85-840 amended subsec. 216 (e) in its entirety effective with respect to monthly benefits under sec. 202 of the Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958. For subsec. 216 (e) as it read prior to amendment, see p. 242.

<sup>146</sup> Sec. 301 (a) (2) of P. L. 85-840 added par. (3) effective with respect to monthly benefits under sec. 202 of the Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>147</sup> Sec. 301 (c) (2) of P. L. 85-840 redesignated pars. (3) and (4), as (4) and (5) respectively and inserted a new par. (3) effective with respect to monthly benefits under sec. 202 of the Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

tion therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 202, or (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.<sup>148</sup>

### Determination of Family Status

(h) (1) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this title if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

(2) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this title, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.<sup>149, 150</sup>

### Disability; Period of Disability

(i) (1) Except for purposes of sections 202 (d), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration, or (B) blindness; and the term "blindness" means central visual acuity of 5/200 or less in the better eye with the use of a correcting lens. An eye in which the

<sup>148</sup> Sec. 301 (c) (2) of P. L. 85-840 added par. (6) effective with respect to monthly benefits under sec. 202 of the Act for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>149</sup> Sec. 3 (h) of P. L. 85-238 amended subsec. 216 (h) in its entirety, effective with respect to monthly benefits under sec. 202 of the Act for months after August 1957. See p. 233, for subsec. 216 (h) as it read prior to amendment.

<sup>150</sup> Sec. 305 (b) of P. L. 85-840 deleted par. (3) effective in the case of lump-sum death payments under sec. 202 (1) on the basis of the wages and self-employment income of any individual who dies after August 1958. For par. (3) as it read prior to amendment, see p. 242.

visual field is reduced to five degrees or less concentric contraction shall be considered for the purpose of this paragraph as having a central visual acuity of 5/200 or less. An individual shall not be considered to be under a disability unless he furnishes such proof of the existence thereof as may be required. Nothing in this title shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2) The term "period of disability" means a continuous period of not less than six full calendar months (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)). No such period shall begin as to any individual unless such individual, while under such disability,<sup>151</sup> files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of sixty-five. Except as provided in paragraph (4), a period of disability shall begin—

(A) if the individual satisfies the requirements of paragraph

(3) on such day,

(i) on the day the disability began, or

(ii) on the first day of the eighteen-month<sup>152</sup> period which ends with the day before the day on which the individual files such application,

whichever occurs later;

(B) if such individual does not satisfy the requirements of paragraph (3) on the day referred to in subparagraph (A), then on the first day of the first quarter thereafter in which he satisfies such requirements.

A period of disability shall end with the close of the last day of the first month in which either the disability ceases or the individual attains the age of sixty-five. No application for a disability determination which is filed more than three months before the first day on which a period of disability can begin (as determined under this paragraph) shall be accepted as an application for purposes of this paragraph, and no such application which is filed prior to January 1, 1955, shall be accepted.

(3) The requirements referred to in clauses (A) and (B) of paragraphs (2) and (4) are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 214) had he attained retirement age and filed application for benefits under section 202 (a) on the first day of such quarter; and

(B) he had not less than twenty quarters of coverage during the forty-quarter period which ends with such quarter, not counting as part of such forty-quarter period any quarter any part of

<sup>151</sup> Sec. 201 (1) of P. L. 85-840 changed "while under disability," to "while under such disability," effective with respect to applications for a disability determination under sec. 216 (1) filed after June 1961.

<sup>152</sup> Sec. 201 (2) of P. L. 85-840 changed "one-year," to "eighteen-month," effective with respect to applications for a disability determination under sec. 216 (1) filed after June 1961.

which was included in a prior period of disability unless such quarter was a quarter of coverage; except that the provisions of subparagraph (A) of this paragraph shall not apply in the case of any individual with respect to whom a period of disability would, but for such subparagraph, begin prior to 1951.<sup>153</sup>

(4) If an individual files an application for a disability determination after December 1954, and before July 1961,<sup>154</sup> with respect to a disability which began before July 1960,<sup>155</sup> and continued without interruption until such application was filed, then the beginning day for the period of disability<sup>156</sup> shall be—

(A) the day such disability began, but only if he satisfies the requirements of paragraph (3) on such day;

(B) if he does not satisfy such requirements on such day, the first day of the first quarter thereafter in which he satisfies such requirements.

### Benefits in Case of Veterans

**Sec. 217.** (a) (1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after August 1950, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this title on the basis of the wages and self-employment income of any World War II veteran, and for purposes of section 216 (i) (3), such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States during World War II. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran during World War II is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality. The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this title if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 215 prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such

<sup>153</sup> Sec. 204 (a) of P. L. 85-840 amended par. (3) in its entirety, effective subject to the conditions and limitations in sec. 207 (a) of P. L. 85-840, p. 190. For par. (3) as it read prior to amendment, see p. 242.

<sup>154</sup> Sec. 203 of P. L. 85-840 changed "1958" to "1961" effective with respect to applications for a disability determination under sec. 216 (1) filed after June 1958. P. L. 85-109 had previously changed "1957" to "1958", effective July 17, 1957.

<sup>155</sup> Sec. 203 of P. L. 85-840 changed "1957" to "1960" effective with respect to applications for disability determination under sec. 216 (1) filed after June 1958. P. L. 85-109 had previously changed "1956" to "1957" effective July 17, 1957.

<sup>156</sup> Sec. 203 of P. L. 85-840 deleted "if such individual does not die prior to July 1, 1955" effective with respect to applications for a disability determination under sec. 216 (1) filed after June 1958.

benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 216 (i) (3).

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran during World War II, a benefit described in clause (B) of paragraph (1) has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service during World War II shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(b) (1) Any World War II veteran who died during the period of three years immediately following his separation from the active military or naval service of the United States shall be deemed to have died a fully insured individual whose primary insurance amount is the amount determined under section 215 (c). Notwithstanding section 215 (d), the primary insurance benefit (for purposes of section 215 (c)) of such veteran shall be determined as provided in this title as in effect prior to the enactment of this section, except that the 1 per centum addition provided for in section 209 (e) (2) of this Act as in effect prior to the enactment of this section shall be applicable only with respect to calendar years prior to 1951. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application;

(B) any pension or compensation is determined by the Veterans' Administration to be payable by it on the basis of the death of such veteran;

(C) the death of the veteran occurred while he was in the active military or naval service of the United States; or

(D) such veteran has been discharged or released from the active military or naval service of the United States subsequent to July 26, 1951.

(2) Upon an application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World

War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to paragraph (1) (B) of this subsection unless he has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such veteran. The Secretary of Health, Education, and Welfare shall thereupon report such decision to the Veterans' Administration. If the Veterans' Administration in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, it shall notify the Secretary of Health, Education, and Welfare and the Secretary shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Secretary of Health, Education, and Welfare on the basis of paragraph (1) of this subsection to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of section 3 of the Act of August 12, 1935, as amended (38 U. S. C., sec. 454a)) be deemed to have been paid to him by such Administration on account of such accrued pension or compensation. No such payment certified by the Secretary of Health, Education, and Welfare, and no payment certified by him for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration shall be deemed by reason of this subsection to have been an erroneous payment.

(c) In the case of any World War II veterans to whom subsection (a) is applicable, proof of support required under section 202 (h) may be filed by a parent at any time prior to July 1951 or prior to the expiration of two years after the date of the death of such veteran, whichever is the later.

(d) For the purposes of this section—

(1) The term "World War II" means the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

(2) The term "World War II veteran" means any individual who served in the active military or naval service of the United States at any time during World War II and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(e) (1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this title on the basis of wages and self-employment income of any veteran (as defined in paragraph (4)), and for purposes of section 216 (i) (3), such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to January 1, 1957. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this title if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 215 prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 216 (i) (3). In the case of monthly benefits under this title for months after December 1956 (and any lump-sum death payment under this title with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service (as a member of a uniformed service) to which the provisions of section 210 (m) (1) are applicable, wages which would, but for the provisions of clause (B), be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey or Public Health Service.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, a benefit described in clause (B) of paragraph (1) has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay

benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to January 1, 1957, shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to January 1, 1957, and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(f) (1) In any case where a World War II veteran (as defined in subsection (d) (2)) or a veteran (as defined in subsection (e) (4)) has died or shall hereafter die, and his widow or child is entitled under the Civil Service Retirement Act of May 29, 1930, as amended, to an annuity in the computation of which his active military or naval service was included, clause (B) of subsection (a) (1) or clause (B) of subsection (e) (1) shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 202 which is based on his wages and self-employment income; except that no such widow or child shall be entitled under section 202 to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such widow or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such widow or child under such Act of May 29, 1930, as amended, on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a widow waives her right to receive such annuity such waiver shall constitute a waiver on her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the widow and all children, or, if there is no widow, all the children, waive their rights to receive annuities under the Civil Service Retirement Act of May 29, 1930, as amended, based on such veteran's military or civilian service.<sup>157</sup>

(g) (1) There are hereby authorized to be appropriated to the Trust Funds<sup>158</sup> annually, as benefits under this title are paid after June

<sup>157</sup> For recomputation to include military service wage credits, see sec. 314 (c) (2) of P. L. 85-840 on p. 192.

<sup>158</sup> Sec. 314 (b) (1) of P. L. 85-840 changed "Trust Fund" to "Trust Funds," effective August 28, 1958.



1956, such sums as the Secretary of Health, Education, and Welfare determines to be necessary to meet the additional costs, resulting from subsections (a), (b), and (e), of such benefits (including lump-sum death payments).

(2) The Secretary shall, before October 1, 1958, determine the amount which would place the Federal Old-Age and Survivors Insurance Trust Fund<sup>159</sup> in the same position in which it would have been at the close of June 30, 1956, if section 210 of this Act, as in effect prior to the Social Security Act Amendments of 1950, and section 217 of this Act (including amendments thereof), had not been enacted. There are hereby authorized to be appropriated to such Trust Fund<sup>160</sup> annually, during the first ten fiscal years beginning after such determination is made, sums aggregating the amount so determined, plus interest accruing on such amount (as reduced by appropriations made pursuant to this paragraph) for each fiscal year beginning after June 30, 1956, at a rate for such fiscal year equal to the average rate of interest (as determined by the Managing Trustee) earned on the invested assets of such Trust Fund<sup>161</sup> during the preceding fiscal year.

**Gratuitous Wage Credits for American Citizens Who Served in the Armed Forces of Allied Countries**

(h) (1) For the purposes of this section, any individual who the Secretary finds—

(A) served during World War II (as defined in subsection (d) (1)) in the active military or naval service of a country which was on September 16, 1940, at war with a country with which the United States was at war during World War II;

(B) entered into such active service on or before December 8, 1941;

(C) was a citizen of the United States throughout such period of service or lost his United States citizenship solely because of his entrance into such service;

(D) had resided in the United States for a period or periods aggregating four years during the five-year period ending on the day of, and was domiciled in the United States on the day of, such entrance into such active service; and

(E) (i) was discharged or released from such service under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty, or

(ii) died while in such service,

shall be considered a World War II veteran (as defined in subsection (d) (2)) and such service shall be considered to have been performed in the active military or naval service of the United States.

(2) In the case of any individual to whom paragraph (1) applies, proof of support required under section 202 (f) or (h) may be filed at any time prior to the expiration of two years after the date of such

<sup>159</sup> Sec. 314 (b) (2) of P. L. 85-840 changed "the Trust Fund" to "the Federal Old-Age and Survivors Insurance Trust Fund," effective August 28, 1958.

<sup>160</sup> Sec. 314 (b) (2) of P. L. 85-840 changed "the Trust Fund" to "such Trust Fund," effective August 28, 1958.

<sup>161</sup> See footnote 160.

individual's death or the date of the enactment of this subsection, whichever is the later.<sup>162, 163</sup>

## Voluntary Agreements for Coverage of State and Local Employees

### Purpose of Agreement

**Sec. 218.** (a) (1) The Secretary of Health, Education, and Welfare shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 210 (a), for the purposes of this title the term "employment" includes any service included under an agreement entered into under this section.

### Definitions

(b) For the purposes of this section—

(1) The term "State" does not include the District of Columbia.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Civilian employees of National Guard units of a

<sup>162</sup> Sec. 314 (a) of P. L. 85-840 added new subsec. (h) effective only with respect to (A) monthly benefits under secs. 202 and 223 of the Act for months after August 1958, (B) lump-sum death payments under sec. 202 in the case of deaths occurring after August 1958, and (C) periods of disability under sec. 216 (1) in the case of applications for a disability determination filed after August 1958.

<sup>163</sup> See sec. 314 (c) (2) of P. L. 85-840, p. 192, for recomputation to include military service credits granted under this provision.

State who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U. S. C., sec. 42), and paid from funds allotted to such units by the Department of Defense, shall for purposes of this section be deemed to be employees of the State and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group.<sup>164</sup> For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 205 of the Agricultural Marketing Act of 1946 (7 U. S. C. 1624) or section 14 of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499n), between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

### Services Covered

(c) (1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraph (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) Any service of an emergency nature;

(B) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(C) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d) (3).

(4) The Secretary of Health, Education, and Welfare shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3) (C) is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such para-

<sup>164</sup> Sec. 101 (1) (3) of the 1954 Amendments provides that notwithstanding sec. 218 (f) of the Act, any agreement or modification covering the services performed by members of the coverage group consisting of civilian employees of State National Guard units may have an effective date as early as December 31, 1950, provided the modification or agreement was agreed to prior to January 1, 1956.

graph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to such individuals is pursuant to subsection (d) (3).

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 210 (a) other than paragraph (7) of such section and service the remuneration for which is excluded from wages by paragraph (2) of section 209 (h).

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment,

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 210 (1)), and

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of section 210 (a) other than paragraph (7) of such section.

(7) No agreement may be made applicable (either in the original agreement or by any modification thereof) to service performed by any individual to whom paragraph (3) (C) is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d) (3)), whichever may be desired by the State.

#### **Positions Covered by Retirement Systems**

(d) (1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on the date of enactment of the succeeding paragraph of this subsection (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of enactment of such succeeding paragraph, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A)). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A)) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is hereby declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1), an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this title to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this title has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c) (3) (C)).

(5) (A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this title to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c), and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3)

(C) of such subsection, such exclusion may not include any services to which such paragraph (3) (C) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6) (A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned.

(B) If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs, there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this subparagraph, the term "institutions of higher learning" includes junior colleges and teachers colleges.

(C) For the purposes of this subsection, any retirement system established by the State of California, Connecticut, Florida, Georgia, Massachusetts, Minnesota, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Vermont, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this subparagraph, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be

deemed to be a separate retirement system with respect to each such division or part.

(D) The position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title.

(E) An individual who is in a position covered by a retirement system to which subparagraph (C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8)), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subparagraph shall apply only if the State so requests and any such individual referred to in such preceding provisions shall, if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1960 or, if later, the expiration of one year after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer.

(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following:

- (i) the positions of such employees;
- (ii) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (i) are employed; or
- (iii) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (i).<sup>165</sup>

<sup>165</sup> Sec. 315 (a) (1) of P. L. 85-840 amended par. (6) in its entirety effective August 28, 1958. For par. (6) of sec. 218 (d) as it read prior to amendment, see p. 243.

(7) The certification by the governor required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) or the corresponding provision of prior law)<sup>166</sup> consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor certifies to the Secretary of Health, Education, and Welfare that—

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) or the corresponding provision of prior law.<sup>167</sup> For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system.<sup>168</sup>

(8) (A) Notwithstanding paragraph (1), if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of such system if the agreement is modified to so provide.

(D) Except in the case of agreements with the States named in subsection (p) and agreements with interstate instrumentalities, nothing in this paragraph shall authorize the application of an agreement to service in any policeman's or fireman's position.<sup>169, 170</sup>

#### Payments and Reports by States

(e) Each agreement under this section shall provide—

(1) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and

<sup>166</sup> Sec. 315 (a) (2) of P. L. 85-840 substituted parenthetical phrase for the following: "(created under the fourth sentence of paragraph (6))." effective August 28, 1958.

<sup>167</sup> Sec. 315 (a) (2) of P. L. 85-840 substituted "subparagraphs (C) and (D) of paragraph (6) or the corresponding provisions of prior law", in place of "the fourth and fifth sentences of paragraph (6)", effective August 28, 1958.

<sup>168</sup> Sec. 1 of P. L. 85-229 added par. (7) effective August 30, 1957.

<sup>169</sup> Sec. 315 (b) of P. L. 85-840 added par. (8) effective August 28, 1958.

<sup>170</sup> See sec. 316 of P. L. 85-840, p. 192, for special provisions regarding teachers under a retirement system in Maine.



Welfare may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954. If the services of employees covered by the agreement constituted employment as defined in section 3121 of such code; and

(2) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education, and Welfare may prescribe to carry out the purposes of this section.

#### Effective Date of Agreement

(f) (1) Any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that—

(A) in the case of an agreement or modification agreed to prior to 1954, such date may not be earlier than December 31, 1950;

(B) in the case of an agreement or modification agreed to after 1954 but prior to 1958, such date may not be earlier than December 31, 1954;

(C) in the case of an agreement or modification agreed to after 1957 but prior to 1960, such date may not be earlier than December 31, 1955; and <sup>171, 172</sup>

(D) in the case of an agreement or modification agreed to during 1954 or after 1959,<sup>173</sup> such date may not be earlier than the last day of the calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary of Health, Education, and Welfare and the State.

(2) In the case of service performed by members of any coverage group—

(A) to which an agreement under this section is made applicable, and

(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Secretary.<sup>174</sup>

<sup>171</sup> Sec. 3 of P. L. 85-226 redesignated former par. (3) as (4), and inserted a new par. (3) effective August 30, 1957. Pars. (1), (2), (3), and (4) were redesignated as subpars. (A), (B), (C), and (D) respectively, by P. L. 85-840, see footnote 174.

<sup>172</sup> See sec. 2 of P. L. 85-227, p. 187, effective August 30, 1957, for retroactivity of modification of agreements with Cal., Conn., Minn., or R. I. in certain cases.

<sup>173</sup> Sec. 3 of P. L. 85-226 changed "1957" to "1959" effective August 30, 1957.

<sup>174</sup> Sec. 315 (c) (1) of P. L. 85-840 inserted "(1)" after "(f)"; redesignated pars. (1), (2), (3), and (4) as subpars. (A), (B), (C), and (D) respectively; and added a new par. (2), effective in the case of any agreement or modification of an agreement under sec. 218 of the Act which is executed after August 28, 1958.

### Termination of Agreement

(g) (1) Upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at end of a calendar quarter specified in the notice, its agreement with the Secretary either—

(A) in its entirety, but only if the agreement has been in effect from its effective date for not less than five years prior to the receipt of such notice; or

(B) with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such coverage group for not less than five years prior to the receipt of such notice.

(2) If the Secretary, after reasonable notice and opportunity for hearing to a State with whom he has entered into an agreement pursuant to this section, finds that the State has failed or is no longer legally able to comply substantially with any provision of such agreement or of this section, he shall notify such State that the agreement will be terminated in its entirety, or with respect to any one or more coverage groups designated by him, at such time, not later than two years from the date of such notice, as he deems appropriate, unless prior to such time he finds that there no longer is any such failure or that the cause for such legal inability has been removed.

(3) If any agreement entered into under this section is terminated in its entirety, the Secretary and the State may not again enter into an agreement pursuant to this section. If any such agreement is terminated with respect to any coverage group, the Secretary and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such coverage group.

### Deposits in Trust Fund; Adjustments

(h) (1) All amounts received by the Secretary of the Treasury under an agreement made pursuant to this section shall be deposited in the Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to subsections (a) (3) and (b) (1) of section 201.

(2) If more or less than the correct amount due under an agreement made pursuant to this section is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be prescribed by regulations of the Secretary of Health, Education, and Welfare.

(3) If an overpayment cannot be adjusted under paragraph (2), the amount thereof and the time or times it is to be paid shall be certified by the Secretary of Health, Education, and Welfare to the Managing Trustee, and the Managing Trustee, through the Fiscal Service of the Treasury Department and prior to any action thereon by the General Accounting Office, shall make payment in accordance with such certification. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary of Health, Education, and Welfare.

### Regulations

(i) Regulations of the Secretary of Health, Education, and Welfare to carry out the purposes of this section shall be designed to make the requirements imposed on States pursuant to this section the same, so far as practicable, as those imposed on employers pursuant to this title and chapter 21 and subtitle F of the Internal Revenue Code of 1954.<sup>175</sup>

### Failure to Make Payments

(j) In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this Act. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this Act. Amounts equal to the amounts deducted under this subsection are hereby appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h) (1).

### Instrumentalities of Two or More States

(k) (1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended, then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member

<sup>175</sup> See pp. 263 and 303.

thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d) (6) (C) apply.<sup>176</sup> The position of any employee of any such instrumentality which is covered by any retirement system to which the first sentence of this paragraph<sup>177</sup> is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d) (6) or the corresponding provision of prior law<sup>178</sup> (and consisting of the positions of members who desire coverage under such agreement).<sup>179</sup>

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this Act may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.<sup>180</sup>

#### Delegation of Functions

(1) The Secretary of Health, Education, and Welfare is authorized, pursuant to agreement with the head of any Federal agency, to delegate any of his functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

#### Wisconsin Retirement Fund

(m) (1) Notwithstanding paragraph (1) of subsection (d), the agreement with the State of Wisconsin may, subject to the provisions

<sup>176</sup> Sec. 315 (a) (3) of P. L. 85-840 added the second and third sentences of par. (2) effective August 28, 1958.

<sup>177</sup> Sec. 315 (a) (3) of P. L. 85-840 substituted "the first sentence of this paragraph" in place of "the preceding sentence," effective August 28, 1958.

<sup>178</sup> Sec. 315 (a) (3) of P. L. 85-840 substituted "subparagraph (C) of subsection (d) (6) or the corresponding provision of prior law," in place of "the fourth sentence of subsection (d) (6)," effective August 28, 1958.

<sup>179</sup> Sec. 1 of P. L. 85-226 added par. (2) to subsec. 218 (k) effective August 30, 1957.

<sup>180</sup> Sec. 2 of P. L. 85-798 added par. (3) to subsec. 218 (k) effective August 28, 1958.

of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund.

(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1951, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen's positions, all service performed in firemen's positions, or both.

#### **Certain Positions No Longer Covered by Retirement Systems**

(n) Notwithstanding subsection (d), an agreement with any State entered into under this section prior to the date of the enactment of this subsection may, prior to January 1, 1958, be modified pursuant to subsection (c) (4) so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on such date of enactment), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of the enactment of this subsection, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

#### **Certain Employees of the State of Utah**

(o) Notwithstanding the provisions of subsection (d), the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c) (4) so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December 31, 1950.

[Note.—For provisions relative to Arizona Teachers' Retirement System, see sec. 101 (k) of the Social Security Amendments of 1954 on p. 166.]

### Policemen and Firemen in Certain States

(p) Any agreement with the State of Alabama, Florida, Georgia, Maryland, New York, North Carolina, Oregon, South Carolina, South Dakota, Tennessee, Washington, or Territory of Hawaii<sup>181</sup> entered into pursuant to this section prior to the date of enactment of this subsection may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), be modified pursuant to subsection (c) (4) to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after the date of the enactment of this subsection, but only upon compliance with the requirements of subsection (d) (3). For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

### Effective Date in Case of Puerto Rico

**Sec. 219.** If the Governor of Puerto Rico certifies to the President of the United States that the legislature of Puerto Rico has, by concurrent resolution, resolved that it desires the extension to Puerto Rico of the provisions of this title, the effective date referred to in sections 210 (h), 210 (i), 210 (j), 211 (a) (6) and 211 (b) shall be January 1 of the first calendar year which begins more than ninety days after the date on which the President receives such certification.<sup>182</sup>

### Disability Provisions Inapplicable if Benefit Rights Impaired

**Sec. 220.** None of the provisions of this title relating to periods of disability shall apply in any case in which their application would result in the denial of monthly benefits or a lump-sum death payment which would otherwise be payable under this title; nor shall they apply in the case of any monthly benefit or lump-sum death payment under this title if such benefit or payment would be greater without their application.

### Disability Determinations

**Sec. 221.** (a) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216 (i) or 223 (c)) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g), be made by a State agency pursuant to an agreement entered into under subsection (b). Except as provided in subsections (c) and (d), any such determination shall be the determination of the Secretary for purposes of this title.

(b) The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State

<sup>181</sup> Sec. 2 of P. L. 85-226 added Alabama, Georgia, Maryland, New York, Tennessee, and the Territory of Hawaii, effective August 30, 1957. Sec. 3 of P. L. 85-798 added Washington effective August 28, 1958.

<sup>182</sup> The certification was received September 28, 1950, thus title II was applicable to Puerto Rico January 1, 1951.

agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determinations referred to in subsection (a) with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.

(c) The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 216 (i) or 223 (c)) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.

(d) Any individual dissatisfied with any determination under subsection (a), (c), or (g) shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205 (b) with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205 (g).

(e) Each State which has an agreement with the Secretary under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, as may be mutually agreed upon, the cost to the State of carrying out the agreement under this section. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 201 (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are attributable to the administration of section 223 and the Federal Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(f) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.

(g) In the case of individuals in a State which has no agreement under subsection (b), in the case of individuals outside the United States, and in the case of any class or classes of individuals not included in an agreement under subsection (b), the determinations referred to in subsection (a) shall be made by the Secretary in accordance with regulations prescribed by him.

## Rehabilitation Services

### Referral for Rehabilitation Services

**Sec. 222. (a)** It is hereby declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

### Deductions on Account of Refusal to Accept Rehabilitation Services

(b) (1) Deductions, in such amounts and at such time or times as the Secretary, shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 202 and 223 for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits or if an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1). If both this paragraph and paragraph (3) are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.<sup>183</sup>

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, husband, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under

<sup>183</sup> Sec. 307 (g) of P. L. 85-840 inserted "(1)" after "(b)" and added a new par. (2) effective with respect to monthly benefits under sec. 202 of the Act for months after August 1958 in which a deduction is incurred under par. (1) of subsec. 222 (b).



section 202 for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1).<sup>184</sup>

#### Service Performed Under Rehabilitation Program

(c) For purposes of sections 216 (i) and 223, an individual shall not be regarded as able to engage in substantial gainful activity solely by reason of services rendered by him pursuant to a program for his rehabilitation carried on under a State plan approved under the Vocational Rehabilitation Act. This subsection shall not apply with respect to any such services rendered after the eleventh month following the first month during which such services are rendered.

### Disability Insurance Benefit Payments

#### Disability Insurance Benefits

**Sec. 223.** (a) (1) Every individual who—

(A) is insured for disability insurance benefits (as determined under subsection (c) (1)),

(B) has attained the age of fifty and has not attained the age of sixty-five,

(C) has filed application for disability insurance benefits, and

(D) is under a disability (as defined in subsection (c) (2)) at the time such application is filed,

shall be entitled to a disability insurance benefit for each month, beginning with the first month after his waiting period (as defined in subsection (c) (3)) in which he becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of sixty-five.

(2) Such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 as though he became entitled to old-age insurance benefits in the first month of his waiting period.

#### Filing of Application

(b) No application for disability insurance benefits which is filed more than nine months before the first month for which the applicant becomes entitled to such benefits shall be accepted as a valid application for purposes of this section. An individual who would have been entitled to a disability insurance benefit for any month after June 1957 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month.<sup>185</sup>

<sup>184</sup> Sec. 205 (n) of P. L. 85-840 added new par. (3) effective with respect to monthly benefits under title II for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

<sup>185</sup> Sec. 202 (a) of P. L. 85-840 added the last sentence to subsec. 223 (b) effective with respect to applications for disability insurance benefits under sec. 223 of the Social Security Act filed after December 1957.

## Definitions

(c) For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully<sup>186</sup> insured individual (as defined in section 214) had he attained retirement age and filed application for benefits under section 202 (a) on the first day of such month, and

(B) he had not less than twenty quarters of coverage during the forty-quarter period ending with the quarter in which such first day occurred, not counting as part of such forty-quarter period any quarter any part of which was included in a period of disability (as defined in section 216 (i)) unless such quarter was a quarter of coverage.

(2) The term “disability” means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be under a disability unless he furnishes such proof of the existence thereof as may be required.

(3) The term “waiting period” means, in the case of any application for disability insurance benefits, the earliest period of six consecutive calendar months—

(A) throughout which the individual who files such application has been under a disability which continues until such application is filed;<sup>187</sup> and

(B) (i) which begins not earlier than with the first day of the eighteenth<sup>188</sup> month before the month in which such application is filed if such individual is insured for disability insurance benefits in such eighteenth<sup>189</sup> month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such eighteenth<sup>190</sup> month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957; nor may any such period begin for any individual before the first day of the sixth month before the month in which he attains the age of fifty.

**Sec. 224. [Repealed.]**<sup>191</sup>

<sup>186</sup> Sec. 204 (b) of P. L. 85-840 substituted “fully insured” for “fully and currently insured” effective subject to the conditions and limitations in sec. 207 (a) of P. L. 85-840, see p. 190.

<sup>187</sup> Sec. 202 (b) of P. L. 85-840 added the words “which continues until such application is filed”, effective with respect to applications for disability insurance benefits under sec. 223 filed after December 1957.

<sup>188</sup> Sec. 202 (b) of P. L. 85-840 substituted “eighteenth” for “sixth”, effective with respect to applications for disability insurance benefits under sec. 223 of the Social Security Act, filed after December 1957.

<sup>189</sup> See footnote 188.

<sup>190</sup> See footnote 188.

<sup>191</sup> Sec. 206 of P. L. 85-840 repealed sec. 224 (which had provided for the reduction of disability benefits) effective with respect to monthly benefits for August 1958 and succeeding months. For sec. 224 as it read prior to repeal see p. 244.

### Suspension of Benefits Based on Disability

**Sec. 225.** If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 223, or that a child who has attained the age of eighteen and is entitled to benefits under section 202 (d), may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 223 or 202 (d) until it is determined (as provided in section 221) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 221 (b), the Secretary shall promptly notify the appropriate State of his action under this section and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this section, the term "disability" has the meaning assigned to such term in section 223 (c) (2). Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 202, on the basis of the wages and self-employment income of such individual, shall be suspended for such month.<sup>102</sup>

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<sup>102</sup> Sec. 205 (o) of P. L. 85-840 added the last sentence to sec. 225 effective with respect to monthly benefits for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958.

## TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION <sup>1 2</sup>

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### Appropriations

**Section 301.** For the purpose of assisting the States in the administration of their unemployment compensation laws, there is hereby authorized to be appropriated, for the fiscal year ending June 30, 1936, the sum of \$4,000,000, for each fiscal year thereafter up to and including the fiscal year ending June 30, 1938, the sum of \$49,000,000, and for the fiscal year ending June 30, 1939, and for each fiscal year thereafter, the sum of \$80,000,000, to be used as hereinafter provided.

### Payments to States

**Sec. 302.** (a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made. The Secretary of Labor's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in

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\*This table of contents does not appear in the law.

<sup>1</sup> Sec. 1 of the President's Reorganization Plan No. 2 of 1949 (14 F. R. 5225, 63 Stat. 1065) transferred the Bureau of Employment Security, including the United States Employment Service, from the Federal Security Agency to the Department of Labor, effective August 20, 1949. Reorganization Plan No. 2 reads as follows:

"SEC. 1. BUREAU OF EMPLOYMENT SECURITY.—The Bureau of Employment Security of the Federal Security Agency, including the United States Employment Service and the Unemployment Insurance Service, together with the functions thereof, is transferred as an organizational entity to the Department of Labor. The functions of the Federal Security Administrator with respect to employment services, unemployment compensation, and the Bureau of Employment Security, together with his functions under the Federal Unemployment Tax Act (as amended, and as affected by the provisions of Reorganization Plan No. 2 of 1946, 60 Stat. 1095, 26 U. S. C. 1600-1611), are transferred to the Secretary of Labor. The functions transferred by the provisions of this section shall be performed by the Secretary of Labor or, subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate."

<sup>2</sup> Title III has been compiled by the United States Department of Labor.

any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a) pay, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified.

### Provisions of State Laws

**Sec. 303.** (a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by him under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305 (b) of the Federal Unemployment Tax Act), immediately upon such receipt, to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305 (b) of the Federal Unemployment Tax Act: *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further*, That the amounts specified by section 903 (c) (2) may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices; and

(6) The making of such reports in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such report; and

(7) Making available upon request to any agency of the United States charged with the administration of public works, or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law; and

(8) Effective July 1, 1941, the expenditure of all moneys received pursuant to section 302 of this title solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law; and

(9) Effective July 1, 1941, the replacement, within a reasonable time, of any moneys received pursuant to section 302 of this title, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of such State law.

(b) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a);

the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such denial or failure to comply. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State: *Provided*, That there shall be no finding under clause (1) until the question of entitlement shall have been decided by the highest judicial authority given jurisdiction under such State law: *Provided further*, That any costs may be paid with respect to any claimant by a State and included as costs of administration of its law.

(c) The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) That such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes; or

(2) That such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

## TITLE IV—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

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### Appropriation

**Section 401.** For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare,<sup>1</sup> State plans for aid to dependent children.

### State Plans for Aid to Dependent Children

**Sec. 402.** (a) A State plan for aid to dependent children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the

\*This table of contents does not appear in the law.

<sup>1</sup> Formerly the (Social Security) "Board". Through inadvertence, this was not changed to "Administration" in the 1950 Amendments. See "Administration of the Social Security Act" under Preface, p. III for explanation of change to "Secretary."

State agency to any individual whose claim for aid to dependent children is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that the State agency shall, in determining need, take into consideration any other income and resources of any child claiming aid to dependent children;<sup>2</sup> (8) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to dependent children;<sup>3</sup> <sup>4</sup> (9) provide, effective July 1, 1951, that all individuals wishing to make application for aid to dependent children shall have opportunity to do so, and that aid to dependent children shall be furnished with reasonable promptness to all eligible individuals; (10) effective July 1, 1952, provide for prompt notice to appropriate law-enforcement officials of the furnishing of aid to dependent children in respect of a child who has been deserted or abandoned by a parent; (11) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act; and (12) provide a description of the services (if any) which the State agency makes available to maintain and strengthen family life for children, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

### Payment to States

Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing October 1, 1958, (1) in the case of any State other

<sup>2</sup> See sec. 1109, p. 143, for modification of this clause with respect to earned income of recipients of aid to the blind.

<sup>3</sup> See footnote 3, p. 2.

<sup>4</sup> See footnote 2, supra.



than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) fourteen-seventeenths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$17 multiplied by the total number of recipients of aid to dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom aid to dependent children in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to dependent children in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$30 multiplied by the total number of recipients of aid to dependent children for such month;

and (2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to dependent children under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$18 multiplied by the total number of recipients of aid to dependent children for such month; and (3) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to relatives with whom such children (applying for or receiving such aid) are living, in order to help such relatives attain self-support or self-care, or which are provided to maintain and strengthen family life for such children.<sup>5</sup> \*

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such

\* Sec. 502 of P. L. 85-840 amended sec. 403 (a) in its entirety effective October 1, 1958. For sec. 403 (a) as it read prior to this amendment see p. 245.

Pursuant to sec. 9 of the Act of April 19, 1950 (64 Stat. 44, 47), the Secretary of the Treasury must also pay to the States, in addition to the amounts produced by sec. 403 (a) of the Social Security Act, an amount equal to 80 percent of the State share of expenditures under the State plan with respect to Navajo and Hopi Indians.

\* See also sec. 1108 (p. 143) for a further limitation on the amounts which may be certified for payment to Puerto Rico, the Virgin Islands, and Guam for any fiscal year.

subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to dependent children furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service<sup>7</sup> of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

### Operation of State Plans

**Sec. 404.** In the case of any State plan for aid to dependent children which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

<sup>7</sup> See footnote 6, p. 4.

### Administration

**Sec. 405.** [Executed. Authorized appropriation for administrative expenses of the Social Security Board under this title for the fiscal year ending June 30, 1936.]

### Definitions

**Sec. 406.** When used in this title—

(a) The term “dependent child” means a needy child under the age of eighteen, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home;

(b) The term “aid to dependent children” means money payments with respect to, or medical care in behalf of or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes money payments or medical care or any type of remedial care recognized under State law for any month to meet the needs of the relative with whom any dependent child is living if money payments have been made under the State plan with respect to such child for such month;

(c) The term “relative with whom any dependent child is living” means the individual who is one of the relatives specified in subsection (a) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

# TITLE V—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

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\*This table of contents does not appear in the law.

## Part 1—Maternal and Child Health Services

### Appropriation

**Section 501.** For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year beginning after June 30, 1958, the sum of \$21,500,000.<sup>1</sup> The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare,<sup>2</sup> State plans for such services.

### Allotments to States

**Sec. 502.** (a) (1). [Executed. Provided for allotting \$7,500,000 for the fiscal year ending June 30, 1951, among the States on the same basis as is provided in paragraph (2).]

(2) Out of the sums appropriated pursuant to section 501 for each fiscal year beginning after June 30, 1958, the Secretary shall allot \$10,750,000 as follows: He shall allot to each State \$60,000 (even though the amount appropriated for such year is less than \$21,500,000), and shall allot each State such part of the remainder of the \$10,750,000,<sup>3</sup> as he finds that the number of live births in such State bore to the total number of live births in the United States in the latest calendar year for which the Secretary has available statistics.

(b) Out of the sum appropriated pursuant to section 501 the Secretary shall allot to the States (in addition to the allotments made under subsection (a)) for each fiscal year beginning after June 30, 1958, the sum of \$10,750,000.<sup>4</sup> Such sums shall be allotted according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of live births in such State.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year.<sup>5</sup> No payment to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

### Approval of State Plans

**Sec. 503.** (a) A State plan for material and child-health services must (1) provide for financial participation by the State; (2) pro-

<sup>1</sup> Sec. 602 (a), P. L. 85-840, increased the annual authorized appropriation from \$16,500,000, effective with respect to the fiscal years beginning after June 30, 1958.

<sup>2</sup> Formerly the (Federal Security) Administrator. See "Administration of the Social Security Act" under the Preface, p. III.

<sup>3</sup> Sec. 602 (b), P. L. 85-840, increased the amount to be allotted from \$8,250,000, effective with respect to the fiscal years beginning after June 30, 1958, and provided for payment of the uniform flat grant even though the amount appropriated is less than the amount authorized.

<sup>4</sup> Sec. 602 (c), P. L. 85-840, increased the amount to be allotted from \$8,250,000, effective with respect to the fiscal years beginning after June 30, 1958.

<sup>5</sup> The Labor-Federal Security Appropriation Act, 1953 (66 Stat. 358), prohibits any allotment for the fiscal year ending June 30, 1953 or any subsequent fiscal year under title V of the Social Security Act from being available after the close of the fiscal year for which it is made, except as may be necessary to liquidate obligations incurred during such year.

vide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of demonstration services in needy areas and among groups in special need.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the State health agency of his approval.

### Payment to States

**Sec. 504.** (a) From the sums appropriated therefor and the allotments available under section 502 (a), the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less

than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) The Secretary of Health, Education, and Welfare shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 502 (b), and the Secretary of the Treasury shall, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Health, Education, and Welfare.

### Operation of State Plans

**Sec. 505.** In the case of any State plan for maternal and child-health services which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 503 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

## Part 2—Services for Crippled Children

### Appropriation

**Sec. 511.** For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, there is hereby authorized to be appropriated for each fiscal year beginning after June 30, 1958, the sum of \$20,000,000.<sup>6</sup> The sums made available under this section, shall be used for making payments to States which have submitted and had approved by the Secretary of Health, Education, and Welfare, State plans for such services.

### Allotments to States

**Sec. 512.** (a) (1) [Executed. Provided for allotting \$6,000,000 for the fiscal year ending June 30, 1951, among the States on the same basis as is provided in paragraph (2).]

<sup>6</sup> Sec. 603 (a), P. L. 85-840, increased the annual authorized appropriation from \$15,000,000, effective with respect to the fiscal years beginning after June 30, 1958.

(2) Out of the sums appropriated pursuant to section 511 for each fiscal year beginning after June 30, 1958, the Secretary shall allot \$10,000,000 as follows: He shall allot to each State \$60,000 (even though the amount appropriated for such year is less than \$20,000,000) and shall allot the remainder of the \$10,000,000<sup>7</sup> to the States according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in section 511 and the cost of furnishing such services to them.

(b) Out of the sums appropriated pursuant to section 511 the Secretary shall allot to the States (in addition to the allotments made under subsection (a)) for each fiscal year beginning after June 30, 1958, the sum of \$10,000,000.<sup>8</sup> Such sums shall be allotted according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of crippled children in each State in need of the services referred to in section 511 and the cost of furnishing such services to them.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 514 until the end of the second succeeding fiscal year.<sup>9</sup> No payment to a State under section 514 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

### Approval of State Plans

**Sec. 513.** (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 511; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such

<sup>7</sup> Sec. 603 (b), P. L. 85-840, increased the amount to be allotted from \$7,500,000, effective with respect to the fiscal years beginning after June 30, 1958, and provided for payment of the uniform flat grant even though the amount appropriated is less than the amount authorized.

<sup>8</sup> Sec. 603 (c), P. L. 85-840, increased the amount to be allotted from \$7,500,000, effective with respect to the fiscal years beginning after June 30, 1958.

<sup>9</sup> See footnote 5, p. 119.



State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the State agency of his approval.

### Payment to States

**Sec. 514.** (a) From the sums appropriated therefor and the allotments available under section 512 (a), the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) The Secretary of Health, Education, and Welfare shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotment available under section 512 (b), and the Secretary of the Treasury shall, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Health, Education, and Welfare.

## Operation of State Plans

**Sec. 515.** In the case of any State plan for services for crippled children which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 513 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

## Part 3—Child-Welfare Services<sup>10</sup>

### Appropriation

**Sec. 521.** For the purpose of enabling the United States, through the Secretary, to cooperate with State public-welfare agencies in establishing, extending, and strengthening public-welfare services (hereinafter in this title referred to as "child-welfare services") for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1959, the sum of \$17,000,000.<sup>11</sup>

### Allotments to States

**Sec. 522. (a)** The sums appropriated for each fiscal year under section 521 shall be allotted by the Secretary for use by cooperating State public-welfare agencies which have plans developed jointly by the State agency and the Secretary, as follows: He shall allot to each State such portion of \$60,000 as the amount appropriated under section 521 for such year bears to the amount authorized to be so appropriated; and he shall allot to each State an amount which bears the same ratio to the remainder of the sums so appropriated for such year as the product of (1) the population of such State under the age of 21 and (2) the allotment percentage of such State (as determined under section 524) bears to the sum of the corresponding products of all the States.

**(b) (1)** If the amount allotted to a State under subsection (a) for any fiscal year is less than such State's base allotment, it shall be increased to such base allotment, the total of the increases thereby required being derived by proportionately reducing the amount allotted under subsection (a) to each of the remaining States, but with such adjustments as may be necessary to prevent the allotment of any

<sup>10</sup> Sec. 601, P. L. 85-840, amended Part 3, Title V, in several respects including the formula for the allotment among the States of the sums appropriated and the elimination of the references to providing services in predominantly rural areas and areas of special need, and by adding the provisions with respect to allotment percentage, base allotment, Federal share and reallocation. See p. 247 for Part 3, Title V, prior to the Amendments of 1958.

<sup>11</sup> Prior to the Amendments of 1958, sec. 601, P. L. 85-840, the authorized annual appropriation was \$12,000,000, and the uniform flat allotment was \$40,000.

such remaining State under subsection (a) from being thereby reduced to less than its base allotment.

(2) For purposes of paragraph (1) the base allotment of any State for any fiscal year means the amount which would be allotted to such State for such year under the provisions of section 521, as in effect prior to the enactment of the Social Security Amendments of 1958, as applied to an appropriation of \$12,000,000.<sup>12</sup>

### Payment to States

**Sec. 523.** (a) From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State with a plan for child-welfare services developed as provided in this part an amount equal to the Federal share (as determined under section 524) of the total sum expended under such plan (including the cost of administration of the plan) in meeting the costs of district, county, or other local child-welfare services, in developing State services for the encouragement and assistance of adequate methods of community child-welfare organization, in paying the costs of returning any runaway child who has not attained the age of eighteen to his own community in another State, and of maintaining such child until such return (for a period not exceeding fifteen days), in cases in which such costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child: *Provided*, That in developing such services for children the facilities and experience of voluntary agencies shall be utilized in accordance with child-care programs and arrangements in the States and local communities as may be authorized by the State.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of subsection (a).

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid thereunder to the State for such prior period.<sup>13</sup>

### Allotment Percentage and Federal Share

**Sec. 524.** (a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the continental United States (excluding Alaska); except that (A) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (B) the allotment percent-

<sup>12</sup> See footnote 10, p. 124.

<sup>13</sup> See footnote 10, p. 124.

age shall be 50 per centum in the case of Alaska and 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(b) For the fiscal year ending June 30, 1960, and each year thereafter, the "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the continental United States (excluding Alaska), except that (1) in no case shall the Federal share be less than  $33\frac{1}{3}$  per centum or more than  $66\frac{2}{3}$  per centum, and (2) the Federal share shall be 50 per centum in the case of Alaska and  $66\frac{2}{3}$  per centum in the case of Puerto Rico, the Virgin Islands, and Guam. For the fiscal year ending June 30, 1959, the Federal share shall be determined pursuant to the provisions of section 521 as in effect prior to the enactment of the Social Security Amendments of 1958.

(c) The Federal share and the allotment percentage for each State shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the continental United States (excluding Alaska) for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such Federal shares and allotment percentages as soon as possible after the enactment of the Social Security Amendments of 1958, which promulgation shall be conclusive for each of the 3 fiscal years in the period ending June 30, 1961.<sup>14</sup>

### Reallotment

**Sec. 525.** The amount of any allotment to a State under section 522 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in such section shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under that section and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 522.<sup>15</sup>

### Part 4—Vocational Rehabilitation

[Note.—This part has been supplanted by the Vocational Rehabilitation Act, 29 U. S. C., chap. 4.]

<sup>14</sup> See footnote 10, p. 124.

<sup>15</sup> See footnote 10, p. 124.

### Part 5—Administration

**Sec. 541. (a)** [Executed. Authorized appropriation for administrative expenses of the Federal Security Agency under this title for the fiscal year ending June 30, 1947.]

(b) The Secretary of Health, Education, and Welfare shall make such studies and investigations as will promote the efficient administration of this title, except section 531.

### TITLE VI—PUBLIC HEALTH WORK

[Note.—This title has been repealed by the Public Health Service Act, approved July 1, 1944 (42 U. S. C., Chap. 6A). See section 314 of that Act (42 U. S. C. 246) for the new provisions on the subject matter formerly included under this title.]

## TITLE VII—ADMINISTRATION

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### Office of Commissioner of Social Security

**Section 701.** [Superseded by section 4 of Reorganization Plan No. 1 of 1953. Section 701 provided for an Office of Commissioner for Social Security. Section 4 of the Plan provides: "There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended."]

### Duties of the Secretary <sup>1</sup>

**Sec. 702.** The Secretary of Health, Education, and Welfare shall perform the duties imposed upon him by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects.

### Expenses of the Secretary

**Sec. 703.** The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out his functions under this Act. Appointments of attorneys and experts may be made without regard to the civil-service laws.

### Reports

**Sec. 704.** The Secretary shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which he is charged under this Act. In addition to the number of copies of such report authorized by other law to be printed, there is hereby authorized to be printed not more than five thousand

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\* This table does not appear in the law.

<sup>1</sup> Formerly the Federal Security Administrator. See "Administration of the Social Security Act", under the Preface, p. III.

copies of such report for use by the Secretary for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the social security program.

### **Training Grants for Public Welfare Personnel**

**Sec. 705.** (a) In order to assist in increasing the effectiveness and efficiency of administration of public assistance programs by increasing the number of adequately trained public welfare personnel available for work in public assistance programs, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1958, the sum of \$5,000,000, and for each of the four succeeding fiscal years such sums as the Congress may determine.

(b) From the sums appropriated pursuant to subsection (a), the Secretary shall make allotments to the States on the basis of (1) population, (2) relative need for trained public welfare personnel, particularly for personnel to provide self-support and self-care services, and (3) financial need.

(c) From each State's allotment under subsection (b), the Secretary shall from time to time pay to such State 80 per centum of the total of its expenditures in carrying out the purposes of this section through (1) grants to public or other nonprofit institutions of higher learning for training personnel employed or preparing for employment in public assistance programs, (2) special courses of study or seminars of short duration conducted for such personnel by experts hired on a temporary basis for the purpose, and (3) establishing and maintaining, directly or through grants to such institutions, fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted under regulations of the Secretary.

(d) Payments pursuant to subsection (c) shall be made in advance on the basis of estimates by the Secretary and adjustments may be made in future payments under this section to take account of overpayments or underpayments in amounts previously paid.

(e) The amount of any allotment to a State under subsection (b) for any fiscal year which the State certifies to the Secretary will not be required for carrying out the purposes of this section in such State shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines have need in carrying out such purposes for sums in excess of those previously allotted to them under this section and will be able to use such excess amounts during such fiscal year; such reallocations to be made on the basis provided in subsection (b) for the initial allotments to the States. Any amount so reallocated to a State shall be deemed part of its allotment under such subsection.

## **TITLE VIII—TAXES WITH RESPECT TO EMPLOYMENT**

[Note.—The provisions of this title are now contained in and are superseded by chapter 21 of the Internal Revenue Code of 1954, see p. 263.]

## TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY <sup>1</sup>

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### Appropriations

**Section 901.** (a) (1) There are hereby appropriated to the Unemployment Trust Fund, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1954, and for each fiscal year thereafter, an amount equal to the amount by which—

(A) 100 per centum of the tax (including interest, penalties, and additions to the tax) received during the fiscal year under the Federal Unemployment Tax Act and covered into the Treasury; exceeds

(B) the sum of (i) the employment security administrative expenditures for such year, (ii) the refunds of such tax (including interest on such refunds) made during such fiscal year, and (iii) the amounts appropriated by section 1202 (b) for such fiscal year.

(2) The amount appropriated by paragraph (1) for any fiscal year shall be transferred from the general fund in the Treasury to the Unemployment Trust Fund at the close of such fiscal year. Each such transfer shall be based on estimates made by the Secretary of the Treasury as of the close of such fiscal year, but proper adjustment shall be made in the amount transferred at the close of the succeeding fiscal year to the extent that such estimates prove to be erroneous. The Secretary of the Treasury shall make his estimate of those employment security administrative expenditures for any fiscal year which are described in subsection (b) (1) only after consultation with the Secretary of Labor.

(b) For the purposes of subsection (a), the term "employment security administrative expenditures" means, in the case of any fiscal year, the sum of—

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\* This table of contents does not appear in the law.

<sup>1</sup> Title IX has been compiled by the United States Department of Labor.. P. L. 83-567 amended secs. 901, 902, 903, and 904 of the Social Security Act. See footnote 1, p. 110.



(1) the aggregate of the amounts expended during the fiscal year for the purpose of assisting the States in (A) the administration of their unemployment compensation laws (including administration pursuant to agreements under title IV of the Veterans' Readjustment Assistance Act of 1952),<sup>2</sup> (B) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended (29 U. S. C., sec. 49-49n), and (C) carrying into effect section 602 of the Servicemen's Readjustment Act of 1944, as amended; and

(2) the amount estimated by the Secretary of Labor as equal to the necessary expenses incurred during the fiscal year for the performance by the Department of Labor of its functions (except its functions with respect to Puerto Rico and the Virgin Islands) under (i) this title and titles III and XII of this Act, (ii) the Federal Unemployment Tax Act, (iii) the provisions of the Act of June 6, 1933, as amended, (iv) title IV (except section 602) of the Servicemen's Readjustment Act of 1944, as amended, and (v) title IV of the Veterans' Readjustment Act of 1952;<sup>3</sup> and

(3) the amount estimated by the Secretary of the Treasury as equal to the necessary expenses incurred during the fiscal year for the performance by the Department of the Treasury of its functions under this title and titles III and XII of this Act and under the Federal Unemployment Tax Act.

### **Amounts Credited to Federal Unemployment Account**

**Sec. 902.** Whenever any amount is transferred to the Unemployment Trust Fund under section 901 (a), there shall be credited (as of the beginning of the succeeding fiscal year) to the Federal unemployment account so much of such amount as equals whichever of the following is the lesser:

(1) The total amount so transferred; or

(2) The amount by which \$200,000,000 exceeds the adjusted balance in the Federal unemployment account at the close of the fiscal year for which the transfer is made.

For the purposes of the preceding sentence, the term "adjusted balance" means the amount by which the balance in the Federal unemployment account exceeds the sum of the outstanding advances under section 1202 (c) to the Federal unemployment account.

### **Amounts Credited to States' Accounts**

**Sec. 903.** (a) So much of any amount transferred to the Unemployment Trust Fund at the close of any fiscal year under section 901 (a) as is not credited to the Federal unemployment account under section 902 shall be credited (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund. Each State's share of the funds to be credited under this subsection as of any July 1 shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury on or before that date on the basis of reports furnished by the States to the Secretary of Labor by June 1 and shall bear the same ratio to the total amount to be so credited as the amount of wages subject to contributions

<sup>2</sup> Incorporated in subchapter I, chapter 41, title 38, United States Code, Veterans' Benefits, by P. L. 85-857, see p. 352.

<sup>3</sup> See footnote 2, above.

under such State unemployment compensation law during the preceding calendar year which have been reported to the State by May 1 bears to the total of wages subject to contributions under all State compensation laws during such calendar year which have been reported to the States by such May 1.

(b) If the Secretary of Labor finds that on July 1 of any fiscal year—

- (1) a State is not eligible for certification under section 303, or
- (2) the law of a State is not approvable under section 3304 of

the Federal Unemployment Tax Act.<sup>4</sup>

then the amount available for crediting to such State's account shall, in lieu of being so credited, be credited to the Federal unemployment account as of the beginning of such July 1. If, during the fiscal year beginning on such July 1, the Secretary of Labor finds and certifies to the Secretary of the Treasury that such State is eligible for certification under section 303, that the law of such State is approvable under such section 3304<sup>5</sup> or both, the Secretary of the Treasury shall transfer such amount from the Federal unemployment account to the account of such State. If the Secretary of Labor does not so find and certify to the Secretary of the Treasury before the close of such fiscal year then the amount which was available for credit to such State's account as of July 1 of such fiscal year shall (as of the close of such fiscal year) become unrestricted as to use as part of the Federal unemployment account.

(c) (1) Amounts credited to the account of a State pursuant to subsection (a) shall, except as provided in paragraph (2), be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensation law and public employment offices if and only if—

(A) the purposes and amounts were specified in the law making the appropriation,

(B) the appropriation law did not authorize the expenditure of such money after the close of the two-year period which began on the date of enactment of the appropriation law,

(C) the money is withdrawn and the expenses are incurred after such date of enactment, and

(D) the appropriation law limits the total amount which may be so used during a fiscal year to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of such State pursuant to subsection (a) during such fiscal year and the four preceding fiscal years, exceeds (ii) the aggregate of the amounts used by the State pursuant to this paragraph and charged against the amounts credited to the account of such State during any of such five fiscal years.

For the purposes of subparagraph (D), amounts used by a State during any fiscal year shall be charged against equivalent amounts which were first credited and which have not previously been so charged; ex-

<sup>4</sup> This is now sec. 3304 of the Internal Revenue Code of 1954. See p. 292.

<sup>5</sup> See footnote 4, above.

cept that no amount used during any fiscal year may be charged against any amount credited during a fiscal year earlier than the fourth preceding fiscal year.

### Unemployment Trust Fund

**Sec. 904.** (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund," hereinafter in this title called the "Fund." The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition. Advances to the Federal unemployment account pursuant to section 1202 (c) shall not be invested.

(c) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the Federal unemployment account, and the railroad unemployment insurance account and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account on the basis of the average daily balance of such account, a proportion-

ate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the aggregate of the outstanding advances under section 1201 from the Federal unemployment account, and

(2) in the case of the Federal unemployment account, (A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and (B) by subtracting from the sum so obtained the aggregate of the outstanding advances from the Treasury to the account pursuant to section 1202 (c).

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the Fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment.

(g) [Repealed.]<sup>6</sup>

(h) There is hereby established in the Unemployment Trust Fund a Federal unemployment account. There is hereby authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected under the Federal Unemployment Tax Act after June 30, 1946, and prior to July 1, 1953, over the unemployment administrative expenditures made after June 30, 1946, and prior to July 1, 1953. As used in this subsection, the term "unemployment administrative expenditures" means expenditures for grants under title III of this Act, expenditures for the administration of that title by the Board or the Secretary of Labor, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act by the Department of the Treasury, the Board, or the Secretary of Labor. For the purposes of this subsection there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of \$10,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754) and the sum of \$18,451,846 which was authorized to be appropriated by section 11 (b) of the Railroad Unemployment Insurance Act.

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<sup>6</sup> Sec. 904 (g) was repealed by P. L. 83-567.

## TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

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### Appropriation

**Section 1001.** For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind and of encouraging each State, as far as practicable under such conditions, to help such individuals attain self-support or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare,<sup>1</sup> State plans for aid to the blind.

### State Plans for Aid to the Blind

**Sec. 1002.** (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; (6) provide that the State agency will make such

\* This table of contents does not appear in the law.

<sup>1</sup> Formerly the (Federal Security) Administrator. See "Administration of the Social Security Act," under the Preface, p. III.

reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act or aid to dependent children under the State plan approved under section 402 of this Act; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind; except that, in making such determination, the State agency shall disregard the first \$50 per month of earned income;<sup>2</sup> (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the blind;<sup>3</sup> (10) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (11) effective July 1, 1951, provide that all individuals wishing to make application for aid to the blind shall have opportunity to do so, and that aid to the blind shall be furnished with reasonable promptness to all eligible individuals; (12) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (13) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the blind to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a),<sup>4</sup> except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

**Sec. 1003.** (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958, (1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expendi-

<sup>2</sup> See sec. 1109 (p. 143) for modification of this clause with respect to the earned income of recipients of aid to the blind.

<sup>3</sup> See footnote 3, p. 1.

<sup>4</sup> For temporary provisions regarding approval of certain State Plans see sec. 344 of the 1950 Amendments, p. 161.

tures for insurance premiums for medical or any other type of remedial care or the cost thereof—

(A) four-fifths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$30 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the blind in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$65 multiplied by the total number of such recipients of aid to the blind for such month;

and (2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$35 multiplied by the total number of recipients of aid to the blind for such month; and (3) in the case of any State, an amount equal to one-half of the total sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care.<sup>5, 6</sup>

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State,

<sup>5</sup> Sec. 503 of P. L. 85-840 amended sec. 1003 (a) in its entirety effective October 1, 1958. For sec. 1003 (a) as it read prior to Amendment, see p. 248.

Pursuant to sec. 9 of the Act of April 19, 1950 (64 Stat. 44, 47), the Secretary of the Treasury must also pay to States, in addition to the amounts provided by sec. 1003 (a) of the Social Security Act, an amount equal to 80 percent of the State share of expenditures under the State Plan with respect to Navajo and Hopi Indians.

See sec. 1109 (p. 143) for modification of this clause with respect to the earned income of recipients of aid to the blind.

<sup>6</sup> See sec. 1108 (p. 143) for a further limitation on the amounts which may be certified for payment to Puerto Rico, the Virgin Islands, and Guam for any fiscal year.

and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the blind furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service<sup>7</sup> of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

### Operation of State Plans

**Sec. 1004.** In the case of any State plan for aid to the blind which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1002 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1002 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

<sup>7</sup> See footnote 6, p. 4.



### Administration

**Sec. 1005.** [Executed. Authorized appropriation for administrative expenses of the Social Security Board for the fiscal year ending June 30, 1936.]

### Definition

**Sec. 1006.** For the purpose of this title, the term "aid to the blind" means money payments to, or medical care in behalf of or any type of remedial care recognized under State law in behalf of, blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

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### Definitions

#### Section 1101. (a) When used in this Act—

(1) The term “State” includes Alaska, Hawaii, and the District of Columbia, and when used in titles I, IV, V, VII, X, and XIV includes Puerto Rico, the Virgin Islands, and Guam.<sup>1</sup>

(2) The term “United States” when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(3) The term “person” means an individual, a trust or estate, a partnership, or a corporation.

(4) The term “corporation” includes associations, joint-stock companies, and insurance companies.

(5) The term “shareholder” includes a member in an association, joint-stock company, or insurance company.

(6) The term “Secretary”, except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(7) The terms “physician” and “medical care” and “hospitalization” include osteopathic practitioners or the services of osteopathic practitioners and hospitals within the scope of their practice as defined by State law.

(8) (A) The “Federal percentage” for any State (other than Puerto Rico, the Virgin Islands, and Guam) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (excluding Alaska); except that (i) the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum, and (ii) the Federal percentage shall be 50 per centum for Alaska and Hawaii.

\* This table does not appear in the law.

<sup>1</sup> Sec. 506 of P. L. 85-840 added Guam, effective subject to the conditions and limitations in sec. 512 of P. L. 85-840, see p. 193.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, and Guam) shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the continental United States (excluding Alaska) for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such percentage as soon as possible after the enactment of the Social Security Amendments of 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.<sup>2</sup>

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this Act or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this Act the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this Act shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this Act, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child.

### Rules and Regulations

**Sec. 1102.** The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act.

### Separability

**Sec. 1103.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

### Reservation of Power

**Sec. 1104.** The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress.

<sup>2</sup> Sec. 505 of P. L. 85-840 added par. (8) effective subject to the conditions and limitations of sec. 512 of P. L. 85-840, see p. 193.

### Short Title

**Sec. 1105.** This Act may be cited as the "Social Security Act."

### Disclosure of Information in Possession of Department

**Sec. 1106.** (a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, or under chapter 2 or 21 or, pursuant thereto, under subtitle F of the Internal Revenue Code of 1954, or under regulations made under authority thereof, which has been transmitted to the Secretary of Health, Education, and Welfare by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Secretary or by any officer or employee of the Department of Health, Education, and Welfare in the course of discharging the duties of the Secretary under this Act, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Secretary or from any officer or employee of the Department of Health, Education, and Welfare, shall be made except as the Secretary may by regulations prescribe. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary to avoid undue interference with his functions under this Act, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare which furnished the information or services.<sup>3</sup>

### Penalty for Fraud

**Sec. 1107.** (a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this Act, subchapter E of chapter 1 or subchapter A, C, or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2, 21, or 23 or section 6011 (a), 6017, or 6051 (a) of the In-

<sup>3</sup>Sec. 701 of P. L. 85-840 amended sec. 1106 (b) in its entirety effective August 28, 1958. For sec. 1106 (b) as it read prior to amendment, see p. 249.

ternal Revenue Code of 1954 or of any rules or regulations issued thereunder, knowing such representations to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Secretary of Health, Education, and Welfare that he is such individual, or the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or the duly authorized agent of such individual, or of the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or (2) falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

### **Limitation on Payments to Puerto Rico, the Virgin Islands, and Guam <sup>4</sup>**

**Sec. 1108.** The total amount certified by the Secretary of Health, Education, and Welfare under titles I, IV, X, and XIV, for payment to Puerto Rico with respect to any fiscal year shall not exceed \$8,500,000; <sup>5</sup> the total amount certified by the Secretary under such titles for payment to the Virgin Islands with respect to any fiscal year shall not exceed \$300,000; and the total amount certified by the Secretary under such titles for payment to Guam with respect to any fiscal year shall not exceed \$400,000.<sup>6</sup> Notwithstanding the provisions of sections 502 (a) (2), 512 (a) (2), and 522 (a), and until such time as Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the \$60,000, \$60,000, and \$60,000, respectively, specified in such sections, allot such smaller amounts to Guam as he may deem appropriate.<sup>7</sup>

### **Earned Income of Blind Recipients**

**Sec. 1109.** Notwithstanding the provisions of sections 2 (a) (7), 402 (a) (7), 1002 (a) (8), and 1402 (a) (8), a State plan approved under title I, IV, X, or XIV may until June 30, 1954, and thereafter shall provide that where earned income has been disregarded in determining the need of an individual receiving aid to the blind under a State plan approved under title X, the earned income so disregarded (but not in excess of the amount specified in section 1002 (a) (8)) shall not be taken into consideration in determining the need of any other individual for assistance under a State plan approved under title I, IV, X, or XIV.

<sup>4</sup> Sec. 507 (b) of P. L. 85-840 added "Guam" to the heading, effective for fiscal years ending after June 30, 1958.

<sup>5</sup> Sec. 507 (a) of P. L. 85-840 substituted "\$8,500,000" in place of "\$5,312,500," effective for fiscal years ending after June 30, 1958.

<sup>6</sup> Sec. 507 (a) of P. L. 85-840 deleted "\$200,000" and inserted in place thereof the material beginning with "\$300,000" through the end of the sentence, effective for fiscal years ending after June 30, 1958.

<sup>7</sup> Sec. 508 of P. L. 85-840 added the last sentence to sec. 1108 effective for fiscal years ending after June 30, 1959.

### Cooperative Research or Demonstration Projects

**Sec. 1110.** (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, \$5,000,000 and for each fiscal year thereafter such sums as the Congress may determine for (1) making grants to States and public and other nonprofit organizations and agencies for paying part of the cost of research or demonstration projects such as those relating to the prevention and reduction of dependency, or which will aid in effecting coordination of planning between private and public welfare agencies or which will help improve the administration and effectiveness of programs carried on or assisted under the Social Security Act and programs related thereto, and (2) making contracts or jointly financed cooperative arrangements with States and public and other nonprofit organizations and agencies for the conduct of research or demonstration projects relating to such matters.

(b) No contract or jointly financed cooperative arrangement shall be entered into, and no grant shall be made, under subsection (a), until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed projects as to soundness of their design, the possibilities of securing productive results, the adequacy of resources to conduct the proposed research or demonstrations, and their relationship to other similar research or demonstrations already completed or in process.

(c) Grants and payments under contracts or cooperative arrangements under subsection (a) may be made either in advance or by way of reimbursement, as may be determined by the Secretary; and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this section.

### Public Assistance Payments to Legal Representatives

**Sec. 1111.** For purposes of titles I, IV, X, and XIV, payments on behalf of an individual, made to another person who has been judicially appointed, under the law of the State in which such individual resides, as legal representative of such individual for the purpose of receiving and managing such payments (whether or not he is such individual's legal representative for other purposes), shall be regarded as money payments to such individual.<sup>a</sup>

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<sup>a</sup> Sec. 511 (a) of P. L. 85-840 added new sec. 1111, effective in the case of payments to legal representatives by any State made after June 30, 1958; and to such payments by any State made after December 31, 1953, and prior to July 1, 1958, if certifications for payment to such State have been made by the Secretary of Health, Education, and Welfare with respect thereto, or such State has presented to the Secretary a claim (and such other data as the Secretary may require) with respect thereto prior to July 1, 1959.

## TITLE XII—ADVANCES TO STATE UNEMPLOYMENT FUNDS<sup>1</sup>

### Section 1201. (a) If—

(1) the balance in the unemployment fund of a State in the Unemployment Trust Fund at the close of September 30, 1953, or at the close of the last day in any ensuing calendar quarter, is less than the total compensation paid out under the unemployment compensation law of such State during the twelve-month period ending at the close of such day;

(2) the Governor of such State applies to the Secretary of Labor during the calendar quarter following such day for an advance under this subsection; and

(3) the Secretary of Labor finds that the conditions specified in paragraphs (1) and (2) have been met.

the Secretary of Labor shall certify to the Secretary of the Treasury such amounts as may be specified in the application of the Governor, but the aggregate of the amounts so certified pursuant to any such application shall not exceed the highest total compensation paid out under the unemployment compensation law of such State during any one of the four calendar quarters preceding the quarter in which such application was made. For the purposes of this subsection, (A), the application shall be made on such forms, and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law, as the Secretary of Labor deems necessary or relevant to the performance of his duties under this title, and (B) the term "compensation" means cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer from the Federal unemployment account to the account of any State in the Unemployment Trust Fund the amounts certified under subsection (a) by the Secretary of Labor (but not exceeding that portion of the balance in the Federal unemployment account at the time of such transfer which is not restricted as to use pursuant to section 903 (b)). Any amount so transferred shall be an advance which shall be repaid (without interest) by the State to the Federal unemployment account in the manner provided in subsections (a) and (b) (1) of section 1202.

**Sec. 1202.** (a) The Governor of any State may at any time request that funds be transferred from the account of such State to the Federal unemployment account in repayment of part or all of any remaining balance of advances made to such State under section 1201. The Secretary of Labor shall certify to the Secretary of the Treasury the amount stated in such request; and the Secretary of the Treasury shall promptly transfer such amount.

<sup>1</sup> Title XII has been compiled by the United States Department of Labor. Amended by Public Law 567, 83d Cong., 2d sess. See footnote 1, p. 110.

(b) (1) There are hereby appropriated to the Unemployment Trust Fund for credit to the Federal unemployment account, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts by which (A) 100 per centum of the additional tax received under the Federal Unemployment Tax Act by reason of the reduced credits provision of section 3302 (c) (2) of such Act and covered into the Treasury, exceeds (B) the amounts appropriated by paragraph (2). Any amount so appropriated shall be credited against, and shall operate to reduce, the remaining balance of advances under section 1201 to the State with respect to which employers paid such additional tax.

(2) Whenever the amount of such additional tax paid, received, and covered into the Treasury exceeds the remaining balance of advances under section 1201 to the State, there is hereby appropriated to the Unemployment Trust Fund for credit to the account of such State out of any moneys in the Treasury not otherwise appropriated, an amount equal to such excess.

(3) The amounts appropriated by paragraphs (1) and (2) shall be transferred at the close of the month in which the moneys were covered into the Treasury to the Unemployment Trust Fund for credit to the Federal unemployment account or to the account of the State, as the case may be, as of the first day of the succeeding month.

(c) There are hereby authorized to be appropriated to the Federal unemployment account, as repayable advances (without interest), such sums as may be necessary to carry out the purposes of this title.

**Sec. 1203.** When used in this title, the term "Governor" shall include the Commissioners of the District of Columbia.

### TITLE XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

[This title was added by the 1950 Amendments; however, the program provided by this title has expired.]



## TITLE XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

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### Appropriation

**Section 1401.** For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals eighteen years of age and older who are permanently and totally disabled and of encouraging each State, as far as practicable under such conditions, to help such individuals attain self-support or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare,<sup>1</sup> State plans for aid to the permanently and totally disabled.

### State Plans for Aid to the Permanently and Totally Disabled

**Sec. 1402.** (a) A State plan for aid to the permanently and totally disabled must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the permanently and totally disabled is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be

\*This table does not appear in the law.

<sup>1</sup> Formerly the (Federal Security) Administrator. See "Administration of the Social Security Act" under the Preface, p. III.

necessary for the proper and efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act, aid to dependent children under the State plan approved under section 402 of this Act, or aid to the blind under the State plan approved under section 1002 of this Act; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled;<sup>2</sup> (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the permanently and totally disabled;<sup>3</sup> (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (12) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid to the permanently and totally disabled and has resided therein continuously for one year immediately preceding the application;

(2) Any citizenship requirement which excludes any citizen of the United States.

### Payments to States

**Sec. 1403.** (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958, (1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total

<sup>2</sup> See sec. 1109, p. 143, for modification of this clause with respect to the earned income of recipients of aid to the blind.

<sup>3</sup> See footnote 3, p. 2.

amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) four-fifths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$30 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$65 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month;

and (2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$35 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month; and (3) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care.<sup>4, 5</sup>

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection,

<sup>4</sup> Sec. 504 of P. L. 85-840 amended sec. 1403 (a) in its entirety effective October 1, 1958. For sec. 1403 (a) as it read prior to amendment see p. 249.

Pursuant to sec. 9 of the Act of April 19, 1950 (64 Stat. 44, 47) the Secretary of the Treasury must also pay to States, in addition to the amounts provided by sec. 1403 (a) of the Social Security Act, an amount equal to 80 percent of the State share of expenditures under the State Plan with respect to Navajo and Hopi Indians.

See also sec. 1108 (p. 143) for a further limitation on the amounts which may be certified for payment to Puerto Rico, the Virgin Islands, and Guam for any fiscal years.

<sup>5</sup> See sec. 1109 (p. 143) for modification of this clause with respect to the earned income of recipients of aid to the blind.

and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of permanently and totally disabled individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the permanently and totally disabled furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service<sup>\*</sup> of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

### Operation of State Plans

**Sec. 1404.** In the case of any State plan for aid to the permanently and totally disabled which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1402 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1402 (a) to be included in the plan;

<sup>\*</sup> See footnote 6, p. 4.

the Secretary shall notify such State agency that further payments will not be made to the State until he is satisfied that such prohibited requirement is no longer so imposed and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

### Definition

**Sec. 1405.** For the purposes of this title, the term "aid to the permanently and totally disabled" means money payments to, or medical care in behalf of, or any type of remedial care recognized under State law in behalf of, needy individuals eighteen years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

## TITLE XV—UNEMPLOMENT COMPENSATION FOR FEDERAL EMPLOYEES AND THE EX-SERVICEMEN'S UNEMPLOYMENT COMPENSATION PROGRAM <sup>1</sup>

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### Definitions

#### Section 1501. When used in this title—

(a) The term "Federal service" means any service performed after 1952 in the employ of the United States or any instrumentality thereof which is wholly owned by the United States, except that the term does not include service (other than service to which section 1511 applies)<sup>2</sup> performed—

(1) by an elective officer in the executive or legislative branch of the Government of the United States;

(2) as a member of the Armed Forces of the United States<sup>3</sup>;

(3) by foreign service personnel for whom special separation allowances are provided by the Foreign Service Act of 1946 (60 Stat. 999);

(4) prior to January 1, 1955, for the Bonneville Power Administrator if such service constitutes employment under section 1607 (m) of the Internal Revenue Code of 1939;

(5) outside the United States by an individual who is not a citizen of the United States;

(6) by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is paid on a contract or fee basis;

(7) by any individual as an employee receiving nominal compensation of \$12 or less per annum;

(8) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(9) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student

\* This table of contents does not appear in the law.

<sup>1</sup> Title XV has been compiled by the United States Department of Labor. Title XV was added to the Social Security Act by P. L. 83-767 and amended by P. L. 85-848. See footnote 1, p. 110.

<sup>2</sup> Sec. 2 of P. L. 85-848 inserted the parenthetical phrase, effective August 28, 1958.

<sup>3</sup> The term "Federal service", in regard to ex-servicemen, is defined in subsec. 1511 (b).

nurses, and other student employees of hospitals of the Federal Government; 5 U. S. C., sec. 1052) ;

(10) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency ;

(11) by any individual as an employee who is employed under a Federal relief program to relieve him from unemployment ;

(12) as a member of a State, county, or community committee under the Production and Market Administration or of any other board, council, committee, or other similar body, unless such board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States ; or

(13) by an officer or a member of the crew on or in connection with an American vessel (A) owned by or bareboat chartered to the United States and (B) whose business is conducted by a general agent of the Secretary of Commerce, if contributions on account of such service are required to be made to an unemployment fund under a State unemployment compensation law pursuant to section 1606 (g) of the Internal Revenue Code of 1939 or section 3305 (g) of the Internal Revenue Code of 1954.

For the purpose of paragraph (5) of this subsection, the term "United States" when used in a geographical sense means the States, Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

(b) The term "Federal wages" means all remuneration for Federal service, including cash allowances and remuneration in any medium other than cash.\*

(c) The term "Federal employee" means an individual who has performed Federal service.

(d) The term "compensation" means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

(e) The term "benefit year" means the benefit year as defined in the applicable State unemployment compensation law ; except that, if such State law does not define a benefit year, then such term means the period prescribed in the agreement under this title with such State or, in the absence of an agreement, the period prescribed by the Secretary.

(f) The term "Secretary" means the Secretary of Labor.

### Compensation for Federal Employees Under State Agreements

**Sec. 1502.** (a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with the agency administering the unemployment compensation law of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b) of this section, to Federal employees, and (2) will otherwise cooperate with the Secretary and with other State agencies in making payments of compensation under this title.

(b) Any such agreement shall provide that compensation will be paid by the State to any Federal employee, with respect to unemployment after December 31, 1954, in the same amount, on the same terms,

\*The term "Federal wages" in regard to ex-servicemen is defined in subsec. 1511 (c).  
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and subject to the same conditions as the compensation which would be payable to such employee under the unemployment compensation law of the State if the Federal service and Federal wages of such employee assigned to such State under section 1504 had been included as employment and wages under such law.

(c) Any determination by a State agency with respect to entitlement to compensation pursuant to an agreement under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

(d) Each agreement shall provide the terms and conditions upon which the agreement may be amended or terminated.

### **Compensation for Federal Employees in Absence of State Agreement**

**Sec. 1503.** (a) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 1504 to a State which does not have an agreement under this title with the Secretary, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such employee of a claim for compensation under this subsection, make payments of compensation to him with respect to unemployment after December 31, 1954, in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of such State if such employee's Federal service and Federal wages had been included as employment and wages under such law, except that if such employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for any compensation during the benefit year under the law of such State, then payments of compensation under this subsection shall be made only on the basis of his Federal service and Federal wages.

(b) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 1504 to Puerto Rico or the Virgin Islands, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such employee of a claim for compensation under this subsection, make payments of compensation to him with respect to unemployment after December 31, 1954, in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the District of Columbia if such employee's Federal service and Federal wages had been included as employment and wages under such law, except that if such employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for any compensation during the benefit year under such law, then payments of compensation under this subsection shall be made only on the basis of his Federal service and Federal wages.

(c) Any Federal employee whose claim for compensation under subsection (a) or (b) of this section has been denied shall be entitled to a fair hearing in accordance with regulations prescribed by the Secretary. Any final determination by the Secretary with respect to entitlement to compensation under this section shall be subject to review by the courts in the same manner and to the same extent as



is provided in section 205 (g) with respect to final decisions of the Secretary of Health, Education, and Welfare under title II.

(d) The Secretary may utilize for the purposes of this section the personnel and facilities of the agencies in Puerto Rico and the Virgin Islands cooperating with the United States Employment Service under the Act of June 6, 1933 (48 Stat. 113), as amended, and may delegate to officials of such agencies any authority granted to him by this section whenever the Secretary determines such delegation to be necessary in carrying out the purposes of this title. For the purpose of payments made to such agencies under such Act, the furnishing of such personnel and facilities shall be deemed to be a part of the administration of the public employment offices of such agencies.

### **State to Which Federal Service and Wages Are Assignable**

**Sec. 1504.** In accordance with regulations prescribed by the Secretary, the Federal service and Federal wages of an employee shall be assigned to the State in which he had his last official station in Federal service prior to the filing of his first claim for compensation for the benefit year, except that—

(1) if, at the time of the filing of such first claim, he resides in another State in which he performed, after the termination of such Federal service, service covered under the unemployment compensation law of such other State, such Federal service and Federal wages shall be assigned to such other State;

(2) if his last official station in Federal service, prior to the filing of such first claim, was outside the United States, such Federal service and Federal wages shall be assigned to the State where he resides at the time he files such first claim; and

(3) if such first claim is filed while he is residing in Puerto Rico or the Virgin Islands, such Federal service and Federal wages shall be assigned to Puerto Rico or the Virgin Islands.

### **Treatment of Accrued Annual Leave**

**Sec. 1505.** For the purposes of this title, in the case of a Federal employee who is performing Federal service at the time of his separation from employment by the United States or any instrumentality thereof, (1) the Federal service of such employee shall be considered as continuing during the period, subsequent to such separation, with respect to which he is considered as having received payment of accumulated and current annual or vacation leave pursuant to any Federal law, and (2) subject to regulations of the Secretary concerning allocation over the period, such payment shall constitute Federal wages.

### **Payments to States**

**Sec. 1506.** (a) Each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title which would not have been incurred by the State but for the agreement.

(b) In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reim-

bursement, as may be determined by the Secretary, such sum as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

(c) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds for carrying out the purposes of this title.

(d) All money paid a State under this title shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this title, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this title may be made.

(e) An agreement under this title may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this title.

(f) No person designated by the Secretary, or designated pursuant to an agreement under this title, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this title.

(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f) of this section.

(h) For the purpose of payments made to a State under title III, administration by the State agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment compensation law.

### **Information**

**Sec. 1507.** (a) All Federal departments, agencies, and wholly owned instrumentalities of the United States are directed to make available to State agencies which have agreements under this title or to the Secretary, as the case may be, such information with respect to the Federal service and Federal wages of any Federal employee as the Secretary may find practicable and necessary for the determination of such employee's entitlement to compensation under this title. Such information shall include the findings of the employing agency with respect to—

- (1) whether the employee has performed Federal service,
- (2) the periods of such service,

- (3) the amount of remuneration for such service, and
- (4) the reasons for termination of such service.

The employing agency shall make the findings in such form and manner as the Secretary shall by regulations prescribe (which regulations shall include provision for correction by the employing agency of errors or omissions). Any such findings which have been made in accordance with such regulations shall be final and conclusive for the purposes of sections 1502 (c) and 1503 (c). This subsection shall not apply with respect to Federal service and Federal wages covered by section 1511.<sup>5</sup>

(b) The agency administering the unemployment compensation law of any State shall furnish to the Secretary such information as the Secretary may find necessary or appropriate in carrying out the provisions of this title, and such information shall be deemed reports required by the Secretary for the purposes of paragraph (6) of subsection (a) of section 303.

### Penalties

**Sec. 1508.** (a) Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under this title or under an agreement thereunder shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(b) (1) If a State agency or the Secretary, as the case may be, or a court of competent jurisdiction, finds that any person—

(A) has made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed, or caused another to fail, to disclose a material fact, and

(B) as a result of such action has received any amount as compensation under this title to which he was not entitled, such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be. In lieu of requiring the repayment of any amount under this paragraph, the State agency or the Secretary, as the case may be, may recover such amount by deductions from any compensation payable to such person under this title during the two-year period following the date of the finding. Any such finding by a State agency or the Secretary, as the case may be, may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 1502 (c) and 1503 (c).

(2) Any amount repaid to a State agency under paragraph (1) shall be deposited into the fund from which payment was made. Any amount repaid to the Secretary under paragraph (1) shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which payment was made.

### Regulations

**Sec. 1509.** The Secretary is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of

<sup>5</sup> Sec. 4 of P. L. 85-848 added the last sentence, effective August 28, 1958. For ex-servicemen, see subsec. 1511 (d).

this title. The Secretary shall insofar as practicable consult with representatives of the State unemployment compensation agencies before prescribing any rules or regulations which may affect the performance by such agencies of functions pursuant to agreements under this title.

### Appropriations

**Sec. 1510.** There are hereby authorized to be appropriated out of any moneys not otherwise appropriated such sums as are necessary to carry out the provisions of this title.

### Ex-Servicemen's Unemployment Compensation Program

**Sec. 1511.** (a) The provisions of this title, except where inconsistent with the provisions of this section, apply, with respect to weeks of unemployment ending after the sixtieth day after the date of the enactment of this section, to individuals who have had Federal service as defined in subsection (b).

(b) For the purposes of this section, the term "Federal service" means active service (including active duty for training purposes) in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States if—

(1) such service was continuous for ninety days or more, or was terminated earlier by reason of an actual service-incurred injury or disability; and

(2) with respect to such service, the individual (A) has been discharged or released under conditions other than dishonorable, and (B) was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service.

No individual shall be treated as having Federal service within the meaning of the preceding sentence unless he has a period of such service which either begins after January 31, 1955, or terminates after the sixtieth day after the date of the enactment of this section.

(c) For the purposes of this section, the term "Federal wages" means remuneration for the periods of service covered by subsection (b), computed on the basis of remuneration for the individual's pay grade at the time of his discharge or release from the latest period of such service as specified in the schedule applicable at the time of filing of his first claim for compensation for the benefit year. The Secretary shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the remuneration for each pay grade of servicemen covered by this section, which shall reflect representative amounts for appropriate elements of such remuneration (whether in cash or in kind).

(d) (1) Any Federal department or agency shall, when designated by the Secretary, make available to the appropriate State agency or to the Secretary, as the case may be, such information (including findings in the form and manner prescribed by the Secretary by regulation) as the Secretary may find practicable and necessary for the determination of an individual's entitlement to compensation by reason of this section.

(2) Subject to correction of errors and omissions as prescribed by the Secretary by regulation, the following shall be final and conclusive for the purposes of sections 1502 (c) and 1503 (c):

(A) Any finding by a Federal department or agency, made in accordance with paragraph (1), with respect to (i) whether

an individual has met any condition specified in subsection (b), (ii) the individual's periods of Federal service as defined in subsection (b), and (iii) the individual's pay grade at the time of his discharge or release from the latest period of such Federal service.

(B) The schedules of remuneration issued by the Secretary under subsection (c).

(e) Notwithstanding the provisions of section 1504, all Federal service and Federal wages covered by this section, not previously assigned, shall be assigned to the State, or Puerto Rico or the Virgin Islands, as the case may be, in which the claimant first files his claim for unemployment compensation after his most recent discharge or release from such Federal service. This assignment shall constitute an assignment under section 1504 for all purposes of this title.

(f) Payments made under section 4 (c) of the Armed Forces Leave Act of 1946 (37 U. S. C. 33 (c)) at the termination of Federal service covered by this section shall be treated for determining periods of Federal service as payments of annual leave to which section 1505 applies.

(g) An individual who is eligible to receive a mustering-out payment under title V of the Veterans' Readjustment Assistance Act of 1952 (38 U. S. C. 1011 et seq.) shall not be eligible to receive compensation under this title with respect to weeks of unemployment completed within thirty days after his discharge or release if he receives \$100 in such mustering-out payments; within sixty days after his discharge or release if he receives \$200 in such mustering-out payment; or within ninety days after his discharge or release if he receives \$300 in such mustering-out payment.

(h) No payment shall be made by reason of this section to an individual for any period with respect to which he receives an education and training allowance under subsection (a), (b), (c), or (d) of section 232 of the Veterans' Readjustment Assistance Act of 1952 (38 U. S. C. 942), a subsistence allowance under part VII or part VIII of Veterans Regulation Numbered 1 (a), as amended, or an educational assistance allowance under the War Orphans' Educational Assistance Act of 1956 (38 U. S. C. 1031 et seq.).

(i) Any individual—

(1) who meets the wage and employment requirements for compensation under the law of the State to which his Federal service and Federal wages as defined in this section have been assigned (or, in the case of Puerto Rico or the Virgin Islands, the law of the District of Columbia) but would not meet such requirements except by the use of such Federal service and Federal wages, or

(2) whose weekly benefit amount computed according to the law of such State (or the law of the District of Columbia, as the case may be) is increased by the use of such Federal service and Federal wages,

shall not thereafter be entitled to unemployment compensation under the provisions of title IV of the Veterans' Readjustment Assistance Act of 1952 (38 U. S. C. 991 et seq.).<sup>6</sup>

<sup>6</sup> Sec. 8 of P. L. 85-848 approved August 28, 1958, added sec. 1511 in its entirety. The provisions of the Veterans' Readjustment Assistance Act of 1952, referred to in sec. 1511, are now contained in title 38, United States Code, see p. 263.

## SECTIONS OF AMENDING ACTS HAVING CURRENT EFFECT ON THE SOCIAL SECURITY ACT

### SOCIAL SECURITY ACT AMENDMENTS OF 1939

#### TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 902. (f) No tax shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to services rendered prior to January 1, 1940, which are described in subparagraphs (11) and (12) of sections 1426 (b) and 1607 (c) of the Internal Revenue Code, as amended, and any such tax heretofore collected (including penalty and interest with respect thereto, if any), shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payments shall be made under title II of the Social Security Act with respect to services rendered prior to January 1, 1940, which are described in subparagraphs (11) and (12) of section 209 (b) of such Act, as amended.

SEC. 907. In addition to any other deductions made under section 203<sup>1</sup> of the Social Security Act, as amended, deductions shall be made from any primary insurance benefit or benefits to which an individual is entitled or from any other insurance benefit payable with respect to such individual's wages, until such deductions total 1 per centum of any wages paid him for services which constitute employment by virtue of subsection (o) of section 209 of the Social Security Act, as amended, with respect to which the taxes imposed by section 1400 of the Internal Revenue Code have not been deducted by his employer from his wages or paid by such employer.

### SOCIAL SECURITY ACT AMENDMENTS OF 1946 (60 STAT. 978)

SEC. 415. TIME LIMITATION ON LUMP-SUM PAYMENTS UNDER 1935 LAW.

No lump-sum payment shall be made under section 204 of the Social Security Act (as enacted in 1935), or under section 902 (g) of the Social Security Act Amendments of 1939, unless application therefor has been filed prior to the expiration of six months after the date of the enactment of this Act.

### SOCIAL SECURITY ACT AMENDMENTS OF 1950

SEC. 101. (d) Lump-sum death payments shall be made in the case of individuals who died prior to September 1950 as though this Act had

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<sup>1</sup> See p. 34.

not been enacted; except that in the case of any individual who died outside the forty-eight States and the District of Columbia after December 6, 1941, and prior to August 10, 1946, the last sentence of section 202 (g) of the Social Security Act as in effect prior to the enactment of this Act shall not be applicable if application for a lump-sum death payment is filed prior to September 1952, and except that in the case of any individual who died outside the forty-eight States and the District of Columbia on or after June 25, 1950, and prior to September 1950, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands for interment or reinterment, the last sentence of section 202 (g) of the Social Security Act as in effect prior to the enactment of this Act shall not prevent payment to any person under the second sentence thereof if application for a lump-sum death payment under such section with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

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#### SERVICES FOR COOPERATIVES PRIOR TO 1951

SEC. 110. In any case in which—

(1) an individual has been employed at any time prior to 1951 by organizations enumerated in the first sentence of section 101 (12) of the Internal Revenue Code,

(2) the service performed by such individual during the time he was so employed constituted agricultural labor as defined in section 209 (1) of the Social Security Act and section 1426 (h) of the Internal Revenue Code, as in effect prior to the enactment of this Act, and such service would, but for the provisions of such sections, have constituted employment for the purposes of title II of the Social Security Act and subchapter A of chapter 9 of such Code,

(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code have been paid with respect to any part of the remuneration paid to such individual by such organization for such service and the payment of such taxes by such organization has been made in good faith upon the assumption that such service did not constitute agricultural labor as so defined, and

(4) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall be deemed to constitute remuneration for employment as defined in section 209 (b) of the Social Security Act as in effect prior to the enactment of this Act (but it shall not constitute wages for purposes of deductions under section 203 of such Act for months for which benefits under title II of such Act have been certified and paid prior to the enactment of this Act).

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#### APPROVAL OF CERTAIN STATE PLANS

SEC. 344. (a) In the case of any State (as defined in the Social Security Act, but excluding Puerto Rico and the Virgin Islands) which

did not have on January 1, 1949, a State plan for aid to the blind approved under title X of the Social Security Act, the Secretary shall approve a plan of such State for aid to the blind for the purposes of such title X, even though it does not meet the requirements of clause (8) of section 1002 (a) of the Social Security Act, if it meets all other requirements of such title X for an approved plan for aid to the blind; but payments under section 1003 of the Social Security Act shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of such section under a plan approved under such title X without regard to the provisions of this section.

(b) The provisions of subsection (a) shall be effective only for the period beginning October 1, 1950, and ending June 30, 1961.<sup>2</sup>

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#### REORGANIZATION PLAN NO. 28 OF 1950

SEC. 407. For the purposes of section 1 (a) of Reorganization Plan No. 26 of 1950, this Act shall be deemed to have been enacted prior to the effective date of such plan.

### SOCIAL SECURITY ACT AMENDMENTS OF 1952

#### EFFECTIVE DATES

SEC. 2. (c) (1) The amendments made by subsection (a) shall, subject to the provisions of paragraph (2) of this subsection and notwithstanding the provisions of section 215 (f) (1) of the Social Security Act, apply in the case of lump-sum death payments under section 202 of such Act with respect to deaths occurring after, and in the case of monthly benefits under such section for any month after, August 1952.

(2) (A) In the case of any individual who is (without the application of section 202 (j) (1) of the Social Security Act) entitled to a monthly benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of such section 202 for August 1952, whose benefit for such month is computed through use of a primary insurance amount determined under paragraph (1) or (2) of section 215 (c) of such Act, and who is entitled to such benefit for any succeeding month on the basis of the same wages and self-employment income, the amendments made by this section shall not (subject to the provisions of subparagraph (B) of this paragraph) apply for purposes of computing the amount of such benefit for such succeeding month. The amount of such benefit for such succeeding month shall instead be equal to the larger of (i) 112½ per centum of the amount of such benefit (after the application of sections 203 (a) and 215 (g) of the Social Security Act as in effect prior to the enactment of this Act) for August 1952, increased, if it is not a multiple of \$0.10, to the next higher multiple of \$0.10, or (ii) the amount of such benefit (after the application of sections 203 (a) and 215 (g) of the Social Security Act as in effect prior to the enactment of this Act) for August 1952, increased by an amount equal to the product obtained by multiplying \$5 by the fraction applied to

<sup>2</sup> Sec. 509 of P. L. 85-840 enacted on August 28, 1958, changed "June 30, 1959" to "June 30, 1961".



the primary insurance amount which was used in determining such benefit, and further increased, if such product is not a multiple of \$0.10, to the next higher multiple of \$0.10. The provisions of section 203 (a) of the Social Security Act, as amended by this section (and, for purposes of such section 203 (a), the provisions of section 215 (c) (4) of the Social Security Act, as amended by this section), shall apply to such benefit as computed under the preceding sentence of this subparagraph, and the resulting amount, if not a multiple of \$0.10, shall be increased to the next higher multiple of \$0.10.

(B) The provisions of subparagraph (A) shall cease to apply to the benefit of any individual under title II of the Social Security Act for any month after August 1954.

(3) The amendments made by subsection (b) shall (notwithstanding the provisions of section 215 (f) (1) of the Social Security Act) apply in the case of lump-sum death payments under section 202 of such Act with respect to deaths occurring after August 1952, and in the case of monthly benefits under such section for months after August 1952.

#### SAVING PROVISIONS

(d) (1) Where—

(A) an individual was entitled (without the application of section 202 (j) (1) of the Social Security Act) to an old-age insurance benefit under title II of such Act for August 1952;

(B) two or more other persons were entitled (without the application of such section 202 (j) (1) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individuals; and

(C) the total of the benefits to which all persons are entitled under such title on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title, would (but for the provisions of this paragraph) be reduced by reason of the application of section 203 (a) of the Social Security Act, as amended by this Act,

then the total of benefits, referred to in clause (C), for such subsequent month shall be reduced to whichever of the following is the larger:

(D) the amount determined pursuant to section 203 (a) of the Social Security Act, as amended by this Act; or

(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act, for August 1952 plus the excess of (i) the amount of his old-age insurance benefit for August 1952 computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for August 1952, over (ii) the amount of his old-age insurance benefit for August 1952.

(2) No increase in any benefit by reason of the amendments made by this section or by reason of paragraph (2) of subsection (c) of this section shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act.

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SEC. 4. (e) The amendments made by subsection (a) shall apply in the case of monthly benefits under title II of the Social Security Act for months after August 1952. The amendments made by subsection

(b) shall apply in the case of monthly benefits under such title II for months in any taxable year (of the individual entitled to such benefits) ending after August 1952. The amendments made by subsection (c) shall apply in the case of monthly benefits under such title II for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) ending after August 1952. The amendments made by subsection (d) shall apply in the case of taxable years ending after August 1952. As used in this subsection, the term "taxable year" shall have the meaning assigned to it by section 211 (e) of the Social Security Act.

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SEC. 5. (c) (1) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after August 1952, and with respect to lump-sum death payments in the case of deaths occurring after August 1952, except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 217 (e) of the Social Security Act applies, to monthly benefits under such section 202 for August 1952, such amendments shall apply (A) only if an application for recomputation by reason of such amendments is filed by such individual, or any other individual, entitled to benefits under such section 202 on the basis of such wages and self-employment income, and (B) only with respect to such benefits for months after whichever of the following is the later: August 1952 or the seventh month before the month in which such application was filed. Recomputations of benefits as required to carry out the provisions of this paragraph shall be made notwithstanding the provisions of section 215 (f) (1) of the Social Security Act; but no such recomputation shall be regarded as a recomputation for purposes of section 215 (f) of such Act.

(2) In the case of any veteran (as defined in section 217 (e) (4) of the Social Security Act) who died prior to September 1952, the requirement in subsections (f) and (h) of section 202 of the Social Security Act that proof of support be filed within two years of the date of such death shall not apply if such proof is filed prior to September 1954.

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(e) (2) In the case of any individual who died outside the forty-eight States and the District of Columbia after August 1950 and prior to January 1954, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands for interment or reinterment, the last sentence of section 202 (i) of the Social Security Act shall not prevent payment to any person under the second sentence thereof if application for a lump-sum death payment with respect to such deceased individual is filed under such section by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

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SEC. 6. (c) In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act) en-

titled to old-age insurance benefits in 1952 and with respect to whom not less than six of the quarters elapsing after 1950 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his wage closing date shall be the first day of such quarter of death or entitlement instead of the day specified in section 215 (b) (3) of such Act, but only if it would result in a higher primary insurance amount for such individual. The terms used in this paragraph shall have the same meaning as when used in title II of the Social Security Act.

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(e) In case the benefit of any individual for any month after August 1952 is computed under section 2 (c) (2) (A) of this Act through use of a benefit (after the application of sections 203 and 215 (g) of the Social Security Act as in effect prior to the enactment of this Act) for August 1952 which could have been derived from either of two (and not more than two) primary insurance amounts, and such primary insurance amounts differ from each other by not more than \$0.10, then the benefit of such individual for such month of August 1952 shall, for the purposes of the last sentence of such section 2 (c) (2) (A), be deemed to have been derived from the larger of such two primary insurance amounts.

## SOCIAL SECURITY ACT AMENDMENTS OF 1954

### CIVILIAN EMPLOYEES OF STATE NATIONAL GUARD UNITS AND CERTAIN STATE INSPECTORS

SEC. 101. (i) (1) Effective as of January 1, 1951, paragraph (5) of section 218 (b) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Civilian employees of National Guard units of a State who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U. S. C., sec. 42), and paid from funds allotted to such units by the Department of Defense, shall for purposes of this section be deemed to be employees of the State and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group."

(2) Effective January 1, 1955, such paragraph is further amended by adding after the sentence added by paragraph (1) of this subsection the following new sentence: "For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 205 of the Agricultural Marketing Act of 1946 (7 U. S. C. 1624) or section 14 of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499n), between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group."

(3) In the case of any coverage group to which the amendment made by paragraph (1) is applicable, any agreement or modification of an agreement agreed to prior to January 1, 1956, may, notwithstanding section 218 (f) of the Social Security Act, be made effective with respect to services performed by employees as members of such

coverage group after any effective date specified therein, but in no case may such effective date be earlier than December 31, 1950.

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#### ARIZONA TEACHERS' RETIREMENT SYSTEM

(k) If, prior to January 1, 1956, the agreement with the State of Arizona entered into pursuant to section 218 of the Social Security Act is modified pursuant to subsection (d) (3) of such section so as to apply to service performed by employees in positions covered by the Arizona Teachers' Retirement System the modification may, notwithstanding section 218 (f) of the Social Security Act, be made effective with respect to service performed in such positions after an effective date specified in the modification, but in no case may such effective date be earlier than December 31, 1950. For the purposes of any such modification, all employees in positions covered by the Arizona Teachers' Retirement System shall be deemed, notwithstanding the provisions of section 218 (d) (6) of such Act, to constitute a separate coverage group.

#### PRESUMED WORK DEDUCTIONS IN CASE OF CERTAIN RETROACTIVE STATE AGREEMENTS

(l) (1) In the case of any services performed prior to 1955 to which an agreement under section 218 of the Social Security Act was made applicable, deductions which—

(A) were not imposed under section 203 of such Act with respect to such services performed prior to the date the agreement was agreed to or, if the original agreement was not applicable to such services, performed prior to the date the modification making such agreement applicable to such services was agreed to, and

(B) would have been imposed under such section 203 had such agreement, or modification, as the case may be, been agreed to on the date it became effective,

shall be deemed to have been imposed, but only for purposes of section 215 (f) (2) (A) or section 215 (f) (4) (A) of such Act as in effect prior to the enactment of this Act. An individual with respect to whose services the preceding sentence is applicable, or in the case of his death, his survivors entitled to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income, shall be entitled to a recomputation of his primary insurance amount under such section 215 (f) (2) (A) or section 215 (f) (4) (A), as the case may be, if the conditions specified therein are met and if, with respect to a recomputation under such section 215 (f) (2) (A), such individual files the application referred to in such section after August 1954 and prior to January 1956 or, with respect to a recomputation under such section 215 (f) (4) (A), such individual died prior to January 1956 and any of such survivors entitled to monthly benefits files an application, in addition to the application filed for such monthly benefits, for a recomputation under such section 215 (f) (4) (A).

(2) For purposes of a recomputation made by reason of paragraph (1) of this subsection, the primary insurance amount of the individ-

ual who performed the services referred to in such paragraph shall be computed under subsection (a) (2) of section 215 of the Social Security Act, as amended by this Act (but, for such purposes, without application of subsection (d) (4) of such section, as in effect prior to the enactment of this Act or as amended by this Act) and as though he became entitled to old-age insurance benefits in whichever of the following months yields the highest primary insurance amount:

(A) the month following the last month for which deductions are deemed, pursuant to paragraph (1) of this subsection, to have been made; or

(B) the first month after the month determined under subparagraph (A) (and prior to September 1954) in which his benefits under section 202 (a) of the Social Security Act were no longer subject to deductions under section 203 (b) of such Act; or

(C) the first month after the last month (and prior to September 1954) in which his benefits under section 202 (a) of the Social Security Act were subject to deductions under section 203 (b) of such Act; or

(D) the month in which such individual filed his application for recomputation referred to in paragraph (1) of this subsection or, if he died without filing such application and prior to January 1, 1956, the month in which he died, and in any such case (but, if the individual is deceased, only if death occurred after August 1954) the amendments made by subsections (b) (1), (e) (1) and (e) (3) (B) of section 102 of this Act shall be applicable.

Such recomputation shall be effective for and after the month in which the application required by paragraph (1) of this subsection is filed. The provisions of this subsection shall not be applicable in the case of any individual if his primary insurance amount has been recomputed under section 215 (f) (2) of the Social Security Act on the basis of an application filed prior to September 1954.

(3) If any recomputation under section 215 (f) of the Social Security Act is made by reason of deductions deemed pursuant to paragraph (1) of this subsection to have been imposed with respect to benefits based on the wages and self-employment income of any individual, the total of the benefits based on such wages and self-employment income for months for which such deductions are so deemed to have been imposed shall be recovered by making, in addition to any other deductions under section 203 of such Act, deductions from any increase in benefits, based on such wages and self-employment income, resulting from such recomputation.

\* \* \* \* \*

#### EFFECTIVE DATES

(n) The amendment made by paragraph (3) of subsection (g) shall be applicable only with respect to taxable years beginning after 1950. The amendments made by paragraphs (1), (2), and (4) of such subsection and by subsection (d) shall, except for purposes of section 203 of the Social Security Act, be applicable only with respect to taxable years ending after 1954. The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall be applicable only with respect to remuneration paid after 1954. The amendments made by paragraphs (4), (5), and (6) of subsection (a) shall be applicable

only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954. The amendment made by paragraph (3) of subsection (c) shall become effective January 1, 1955. The other amendments made by this section (other than the amendments made by subsection (h), (i), (j), and (m) shall be applicable only with respect to services performed after 1954. For purposes of section 203 of the Social Security Act, the amendments made by paragraphs (1), (2), and (4) of subsection (g) and by subsection (d) shall be effective with respect to net earnings from self-employment derived after 1954. The amount of net earnings from self-employment derived during any taxable year ending in, and not with the close of, 1955 shall be credited equally to the calendar quarter in which such taxable year ends and to each of the three or fewer preceding quarters any part of which is in such taxable year; and, for purposes of the preceding sentence of this subsection, net earnings from self-employment so credited to calendar quarters in 1955 shall be deemed to have been derived after 1954.

\* \* \* \* \*

#### INCREASE IN BENEFIT AMOUNTS

SEC. 102. (e) (5) (A) In the case of any individual who, upon filing application therefor before September 1954, would (but for the provisions of section 215 (f) (6) of the Social Security Act) have been entitled to a recomputation under subparagraph (A) or (B) of section 215 (f) (2) of such Act as in effect prior to the enactment of this Act, the Secretary shall recompute such individual's primary insurance amount, but only if he files an application therefor or, in case he died before filing such application, an application for monthly benefits or a lump-sum death payment on the basis of his wages and self-employment income is filed. Such recomputation shall be made only as provided in subsection (a) (2) of section 215 of the Social Security Act, as amended by this Act, through the use of a primary insurance amount determined under subsection (d) (6) of such section in the same manner as for an individual to whom subsection (a) (1) of such section, as in effect prior to the enactment of this Act, is applicable; and such recomputation shall take into account only such wages and self-employment income as would be taken into account under section 215 (b) of the Social Security Act if the month in which the application for recomputation is filed, or if the individual died without filing the application for recomputation, the month in which he died, were deemed to be the month in which he became entitled to old-age insurance benefits. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivor benefits becomes entitled to such benefits.

(B) In the case of—

(i) any individual who is entitled to a recomputation under subparagraph (A) of section 215 (f) (2) of the Social Security Act as in effect prior to the enactment of this Act on the basis of an application filed after August 1954, or who died after such month leaving any survivors entitled to a recomputation under section 215 (f) (4) of the Social Security Act as in effect prior to

the enactment of this Act on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or with respect to whom the twelfth month referred to in such subparagraph (A) occurred after such month, and

(ii) any individual who is entitled to a recomputation under section 215 (f) (2) (B) of the Social Security Act as in effect prior to the enactment of this Act on the basis of an application filed after August 1954, or who died after August 1954 leaving any survivors entitled to a recomputation under section 215 (f) (4) of the Social Security Act as in effect prior to the enactment of this Act on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or who did not attain the age of seventy-five prior to September 1954,

the recomputation of his primary insurance amount shall be made in the manner provided in section 215 of the Social Security Act, as amended by this Act, for computation of such amount, except that his closing date, for purposes of subsection (b) of such section 215, shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed such application for or, if he has died, in the month in which he died. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivors benefits becomes entitled to such benefits.

(C) An individual or, in case of his death, his survivors entitled to a lump-sum death payment or to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income shall be entitled to a recomputation of his primary insurance amount under section 215 (f) (2) or section 215 (f) (4) of the Social Security Act as in effect prior to the date of enactment of this Act only if (i) he had not less than six quarters of coverage in the period after 1950 and prior to January 1, 1955, and (ii) either the twelfth month referred to in subparagraph (A) of such section 215 (f) (2) occurred prior to January 1, 1955, or he attained the age of 75 prior to 1955, and (iii) he meets the other conditions of entitlement to such a recomputation. No individual shall be entitled to a recomputation under subparagraph (A) or (B) of this paragraph if his primary insurance amount has previously been recomputed under either of such subparagraphs.

(6) In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act) entitled to old-age insurance benefits in 1956 and with respect to whom not less than six of the quarters elapsing after 1954 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215 (a) (1) (A) of such Act, as amended by this Act, with a starting date of December 31, 1954, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount. For the purposes of section 215 (f) (3) (C) of such Act, the determina-

tion of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215 (b) (3) (A) of such Act, and the recomputation provided for by such section 215 (f) (3) (C) shall be made using July 1, 1956, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1956 closing date, the total of his wages and self-employment income after December 31, 1955, shall, if it is in excess of \$2,100, be reduced to such amount.

\* \* \* \* \*

(8) In the case of an individual who became (without the application of section 202 (j) (1)) entitled to old-age insurance benefits or died prior to September 1954, the provisions of section 215 (f) (3) as in effect prior to the enactment of this Act shall be applicable as though this Act had not been enacted.

(f) (1) The amendments made by the preceding subsections, other than subsection (b) and paragraphs (1), (2), (3), and (4) of subsection (e), shall (subject to the provisions of paragraph (2) and notwithstanding the provisions of section 215 (f) (1) of the Social Security Act) apply in the case of lump-sum death payments under section 202 of such Act with respect to deaths occurring after, and in the case of monthly benefits under such section for months after, August 1954.

(2) (A) The amendment made by subsection (b) (2) shall be applicable only in the case of monthly benefits for months after August 1954, and the lump-sum death payment in the case of death after August 1954, based on the wages and self-employment income of an individual (i) who does not become eligible for benefits under section 202 (a) of the Social Security Act until after August 1954, or (ii) who dies after August 1954, and without becoming eligible for benefits under such section 202 (a), or (iii) who is or has been entitled to have his primary insurance amount recomputed under section 215 (f) (2) of the Social Security Act, as amended by subsection (e) (2) of this section, or under subsection (e) (5) (B) of this section, or (iv) with respect to whom not less than six of the quarters elapsing after June 1953 are quarters of coverage (as defined in such Act), or (v) who files an application for a disability determination which is accepted as an application for purposes of section 216 (i) of such Act, or (vi) who dies after August 1954, and whose survivors are (or would, but for the provisions of section 215 (f) (6) of such Act, be) entitled to a recomputation of his primary insurance amount under section 215 (f) (4) (A) of such Act, as amended by this Act. For purposes of the preceding sentence an individual shall be deemed eligible for benefits under section 202 (a) of the Social Security Act for any month if he was, or would upon filing application therefor in such month have been, entitled to such benefits for such month.

(B) In the case of any individual entitled to old-age insurance benefits under section 202 (a) of the Social Security Act who was or, upon filing application therefor, would have been entitled to such benefits for August 1954, to whom subparagraph (A) is inapplicable, and with respect to whom not less than six of the quarters elapsing after June 30, 1953, are quarters of coverage, the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act, recompute the primary



insurance amount of such individual but only upon the filing of an application, after August 1954, by him or, if he dies without filing such an application, by any person entitled to monthly survivors benefits under section 202 of such Act on the basis of such individual's wages and self-employment income. Such recomputation shall be made in the manner provided in section 215 of the Social Security Act for computation of such individual's primary insurance amount, except that the provisions of subsection (f) of such section (other than paragraph (3) (C) thereof) shall not be applicable for purposes of such computation, and except that his closing date, for purposes of subsection (b) of such section, shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed such application for recomputation or, if he died without filing such application, the month in which he died. Such recomputation shall be effective (i) if the application is filed by such individual, for and after the twelfth month before the bond\* in which the application therefor was filed by such individual but in no case before the first month of the quarter which is such individual's sixth quarter of coverage acquired after June 30, 1953, or (ii) if such application was filed by a person entitled to monthly survivors benefits under section 202 of the Social Security Act on the basis of such individual's wages and self-employment income, for and after the first month for which such person was entitled to such survivors benefits. No such recomputation of an individual's primary insurance amount shall be effective unless it results in a higher primary insurance amount for him; nor shall any such recomputation of an individual's primary insurance amount be effective if such amount has previously been recomputed under this subsection.

(3) The amendments made by subsections (b) (1), (e) (1), and (e) (3) (B) shall be applicable only in the case of monthly benefits based on the wages and self-employment income of an individual who does not become entitled to old-age insurance benefits under section 202 (a) of the Social Security Act until after August 1954, or who dies after August 1954 without becoming entitled to such benefits, or who files an application after August 1954 and is entitled to a recomputation under paragraph (2) or (4) of section 215 (f) of the Social Security Act, as amended by this Act, or who is entitled to a recomputation under paragraph (2) (B) of this subsection, or who is entitled to a recomputation under paragraph (5) of subsection (e).

(4) The amendments made by subsection (e) (2) shall be applicable only in the case of applications for recomputation filed after 1954. The amendment made by subsection (e) (4) shall be applicable only in the case of deaths after 1954.

(5) The amendments made by subparagraph (A) of subsection (e) (3) shall be applicable only in the case of applications for recomputation filed, or deaths occurring, after August 1954.

(6) No increase in any benefit by reason of the amendments made by this section (other than subsection (e)) or by reason of subparagraph (B) of paragraph (2) of this subsection shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act.

\* \* \* \* \*

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\*This is an error in the statute. For "bond" substitute "month".

(h) (1) Where—

(A) an individual was entitled (without the application of section 202 (j) (1) of the Social Security Act) to an old-age insurance benefit under title II of such Act for August 1954;

(B) one or more other persons were entitled (without the application of such section 202 (j) (1)) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

(C) the total of the benefits to which all persons are entitled under such title on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title, would (but for the provisions of this paragraph) be reduced by reason of the application of section 203 (a) of the Social Security Act, as amended by this Act,

then the total of benefits referred to in clause (C) for such subsequent month shall be reduced to whichever of the following is the larger—

(D) the amount determined pursuant to section 203 (a) of the Social Security Act, as amended by this Act; or

(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act, for August 1954 plus the excess of (i) the amount of his old-age insurance benefit for such month computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (ii) the amount of his old-age insurance benefit for such month, or

(F) the amount determined pursuant to section 2 (d) (1) of the Social Security Act Amendments of 1952 for August 1954 plus the excess of (i) the amount of his old-age insurance benefit for such month computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (ii) the amount of his old-age insurance benefit for such month.

(2) Where—

(A) two or more persons were entitled (without the application of section 202 (j) (1) of the Social Security Act) to monthly benefits under title II of such Act for August 1954 on the basis of the wages and self-employment income of a deceased individual; and

(B) the total of the benefits to which all such persons are entitled on the basis of such deceased individual's wages and self-employment income for any subsequent month would (but for the provisions of this paragraph) be reduced by reason of the application of the first sentence of section 203 (a) of the Social Security Act, as amended by this Act,

then, notwithstanding any other provision in title II of the Social Security Act, such deceased individual's average monthly wage shall, for purposes of such section 203 (a), be whichever of the following is the larger:

(C) his average monthly wage determined pursuant to section 215 of such Act, as amended by this Act; or

(D) his average monthly wage determined under such section 215, as in effect prior to the enactment of this Act, plus \$7.

\* \* \* \* \*

SEC. 103. (i) (1) The amendments made by subsection (f) and by paragraph (1) of subsection (a) of this section shall be applicable in the case of monthly benefits under title II of the Social Security Act for months in any taxable year (of the individual entitled to such benefits) beginning after December 1954. The amendments made by paragraph (1) of subsection (b) of this section shall be applicable in the case of monthly benefits under such title II for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) beginning after December 1954. The amendments made by subsections (e) and (g), and by paragraph (2) of subsection (a) and paragraph (2) of subsection (b), shall be applicable in the case of monthly benefits under such title II for months after December 1954. The remaining amendments made by this section (other than subsection (h)) shall be applicable, insofar as they are related to the monthly benefits of an individual, which are based on his wages and self-employment income, in the case of monthly benefits under such title II for months in any taxable year (of such individual) beginning after December 1954 and, insofar as they are related to the monthly benefits of an individual which are based on the wages and self-employment income of someone else, in the case of monthly benefits under such title II for months in any taxable year (of the individual on whose wages and self-employment income such benefits are based) beginning after December 1954.

(2) No deduction shall be imposed on or after the date of the enactment of this Act under subsection (f) or (g) of section 203 of the Social Security Act, as in effect prior to such date, on account of failure to file a report of an event described in subsection (b) (1), (b) (2), or (c) (1) of such section (as in effect prior to such date); and no such deduction imposed prior to such date shall be collected after such date. In determining whether, under section 203 (g) (2) of the Social Security Act, as amended by this Act, a failure to file a report is a first or subsequent failure, any failure with respect to a taxable year which began prior to January 1955 shall be disregarded.

(3) Subsections (b) (1), (b) (2), (c), (e), and (j) of section 203 of the Social Security Act as in effect prior to the enactment of this Act, to the extent they are in effect with respect to months after 1954, are each amended by striking out "seventy-five" and inserting in lieu thereof "seventy-two", but only with respect to such months after 1954.

\* \* \* \* \*

SEC. 106. (h) Notwithstanding the provisions of section 215 (f) (1) of the Social Security Act, the amendments made by subsections (a), (b), (c), (d), (e), and (f) of this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after June 1955, and with respect to lump-sum death payments under such title in the case of deaths occurring after June 1955; but no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act.

\* \* \* \* \*

## BENEFITS IN CERTAIN CASES OF DEATHS BEFORE SEPTEMBER 1950

SEC. 109. (a) In the case of any individual—

(1) who died prior to September 1, 1950, and was not a fully insured individual (under title II of the Social Security Act), when he died, and

(2) who had not less than six quarters of coverage (as defined in such title),

such individual shall, except for purposes of determining entitlement of a former wife divorced to benefits under section 202 (g) of the Social Security Act, be deemed to have died a fully insured individual. Such individual's primary insurance amount shall be computed under subsection (a) (2) of section 215 of such Act. For the purpose of such computation, the provisions of section 215 (d) (3) of such Act shall apply if such individual died a currently insured individual (under title II of such Act) and any other person was entitled on the basis of his wages to monthly benefits or a lump-sum death payment under section 202 of such Act; in all other cases the provisions of section 215 (d) (4) shall be applicable, except that such individual's closing date shall be the first day of the quarter in which he died. In the case of any such individual, the requirement in subsection (h) of section 202 of such Act that proof of support be filed within two years of the date of his death shall not apply if such proof is filed before September 1956.

(b) The provisions of subsection (a) shall be applicable only in the case of monthly benefits under section 202 of the Social Security Act for months after August 1954, on the basis of applications filed after such month.

\* \* \* \* \*

## REPEAL OF REQUIREMENT OF CERTAIN DEDUCTIONS

SEC. 112. (a) No deductions shall be made pursuant to subsection (i) of section 203 of the Social Security Act from any benefits for any month after August 1954; and, effective September 1, 1954, such subsection is repealed.

(b) No deductions shall be made pursuant to section 907 of the Social Security Act Amendments of 1939 (53 Stat. 1360, 1402), with respect to wages for services performed in 1939, from any benefits for any month after August 1954; \* \* \*

## PROOF OF SUPPORT BY HUSBAND OR WIDOWER IN CERTAIN CASES

SEC. 113. (a) For the purpose of determining the entitlement of any individual to husband's insurance benefits under subsection (c) of section 202 of the Social Security Act on the basis of his wife's wages and self-employment income, the requirements of paragraph (1) (D) of such subsection shall be deemed to be met if—

(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202, and (B) in which an event described in paragraph (1) or (2) of sec-

tion 203 (b) of such Act (as in effect before or after the enactment of this Act) did not occur.

(2) such individual has filed proof of such support within two years after such first month, and

(3) such wife was, without the application of subsection (j) (1) of such section 202, entitled to a primary insurance benefit under such Act for August 1950.

(b) For the purpose of determining the entitlement of any individual to widower's insurance benefits under subsection (f) of section 202 of the Social Security Act on the basis of his deceased wife's wages and self-employment income, the requirements of paragraph (1) (E) (ii) of such subsection shall be deemed to be met if—

(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife, and she was a currently insured individual, on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202, and (B) in which an event described in paragraph (1) or (2) of section 203 (b) of such Act (as in effect before or after the enactment of this Act) did not occur,

(2) such individual has filed proof of such support within two years after such first month, and

(3) such wife was, without the application of subsection (j) (1) of such section 202, entitled to a primary insurance benefit under such Act for August 1950.

(c) For purposes of subsection (b) (1) of this section, and for purposes of section 202 (c) (1) of the Social Security Act in cases to which subsection (a) of this section is applicable, the wife of an individual shall be deemed a currently insured individual if she had not less than six quarters of coverage (as determined under section 213 of the Social Security Act) during the thirteen-quarter period ending with the calendar quarter in which occurs the first month (1) for which such wife was entitled to a monthly benefit under section 202 (a) of such Act, and (2) in which an event described in paragraph (1) or (2) of section 203 (b) of such Act (as in effect before or after the enactment of this Act) did not occur.

(d) This section shall apply only with respect to husband's insurance benefits under section 202 (c) of the Social Security Act, and widower's insurance benefits under section 202 (f) of such Act, for months after August 1954, and only with respect to benefits based on applications filed after such month.

#### DEFINITION

SEC. 114. As used in the provisions of the Social Security Act amended by this title, the term "Secretary" means the Secretary of Health, Education, and Welfare.

#### COVERED EMPLOYMENT NOT COUNTED UNDER OTHER FEDERAL RETIREMENT SYSTEMS

SEC. 115. Notwithstanding any other provision of law, in determining eligibility for or the amount of any benefit (other than a

benefit under title II of the Social Security Act or under the Railroad Retirement Act of 1937, as amended) under any retirement system established by the United States or any instrumentality thereof, there shall not be taken into account any service which, by reason of the amendments to section 210 (a) of the Social Security Act made by section 101 (c) of this Act, constitutes employment as defined in such section 210 (a).

\* \* \* \* \*

#### CROSS REFERENCES TO REDESIGNATED PROVISIONS

SEC. 402. References in the Internal Revenue Code of 1939, the Internal Revenue Code of 1954, the Railroad Retirement Act of 1937, as amended, or any other law of the United States to any section or subdivision of a section of the Social Security Act redesignated by this Act shall be deemed to refer to such section or subdivision of a section as so redesignated.

#### SERVICE FOR CERTAIN TAX-EXEMPT ORGANIZATIONS PRIOR TO ENACTMENT OF THE SOCIAL SECURITY AMENDMENTS OF 1956

SEC. 403. (a) In any case in which—

(1) an individual has been employed, at any time subsequent to 1950 and prior to the enactment of the Social Security Amendments of 1956, by an organization which is described in section 501 (c) (3) of the Internal Revenue Code of 1954 and which is exempt from income tax under section 501 (a) of such Code but which did not have in effect during the entire period in which the individual was so employed,<sup>\*</sup> a valid waiver certificate under section 1426 (l) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954;<sup>\*</sup>

(2) the service performed by such individual as an employee of such organization during the period subsequent to 1950 and prior to 1957<sup>\*</sup> would have constituted employment (as defined in section 210 of the Social Security Act and section 1426 (b) of the Internal Revenue Code of 1939 or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be, at the time such service was performed<sup>6</sup>) if such organization had filed prior to the performance of such service such a certificate accompanied by a list of the signatures of employees who concurred in the filing of such certificate and such individual's signature had appeared on such list;

(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939 or sections 3101 and 3111 of the Internal Revenue Code of 1954, as the case may be,<sup>7</sup> have been paid with

<sup>\*</sup> Sec. 1 of P. L. 85-785 substituted "did not have in effect during the entire period in which the individual was so employed," in place of "has failed to file prior to enactment of the Social Security Amendments of 1956," effective August 28, 1958.

<sup>4</sup> Sec. 403 (a) (1) was amended in its entirety by sec. 401 of P. L. 84-880. Prior to amendment, sec. 403 (a) (1) read as follows: "(1) an individual has been employed, at any time subsequent to 1950 and prior to the enactment of this Act, by an organization which is exempt from income tax under section 101 (6) of the Internal Revenue Code of 1939 but which has failed to file prior to the enactment of this Act a waiver certificate under section 1426 (l) (1) of the Internal Revenue Code of 1939."

<sup>5</sup> Sec. 401 of P. L. 84-880 changed "1955" to "1957."

<sup>6</sup> Sec. 401 of P. L. 84-880 added "or section 8121 (b) of the Internal Revenue Code of 1954, as the case may be, at the time such service was performed."

<sup>7</sup> Sec. 401 of P. L. 84-880 inserted "or sections 3101 and 3111 of the Internal Revenue Code of 1954, as the case may be."

respect to any part of the remuneration paid to such individual by such organization for such service performed during the period in which such organization did not have a valid waiver certificate in effect;<sup>8</sup>

(4) part of such taxes have been paid prior to the enactment of the Social Security Amendments of 1956;<sup>9</sup>

(5) so much of such taxes as have been paid prior to the enactment of the Social Security Amendments of 1956<sup>10</sup> have been paid by such organization in good faith and without knowledge that a waiver certificate was necessary or<sup>11</sup> upon the assumption that a valid waiver certificate had been filed by it under section 1426

(1) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954, as the case may be;<sup>12</sup> and

(6) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall, upon the request of such individual (filed in such form and manner, and with such official, as may be prescribed by regulations under chapter 21 of the Internal Revenue Code of 1954<sup>13</sup>), be deemed to constitute remuneration for employment as defined in section 210 of the Social Security Act and section 1426 (b) of the Internal Revenue Code of 1939 or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be.<sup>14</sup>

(b) In any case in which—

(1) an individual has been employed, at any time subsequent to 1950 and prior to the enactment of the Social Security Amendments of 1956,<sup>15</sup> by an organization which has filed a valid waiver certificate under section 1426 (1) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954;<sup>16</sup>

(2) the service performed by such individual during the time he was so employed would have constituted employment (as defined in section 210 of the Social Security Act and section 1426 (b) of the Internal Revenue Code of 1939 or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be, at the time such service was performed<sup>17</sup>) if such individual's signature had appeared on the list of signatures of employees who concurred in the filing of such certificate;

(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939 or sections 3101 and 3111 of the Internal Revenue Code of 1954, as the case may be,<sup>18</sup> have been paid prior to the enactment of the Social Security Amendments of 1956<sup>19</sup>

<sup>8</sup> Sec. 2 of P. L. 85-785 added material to the end of par. (3) beginning with the word "performed," effective August 27, 1958.

<sup>9</sup> Sec. 401 of P. L. 84-880 changed "enactment of this Act," to "enactment of the Social Security Amendments of 1956."

<sup>10</sup> See footnote 9.

<sup>11</sup> Sec. 3 of P. L. 85-785 inserted "without knowledge that a waiver certificate was necessary or," effective August 27, 1958.

<sup>12</sup> Sec. 401 of P. L. 84-880 added "or section 3121 (k) (1) of the Internal Revenue Code of 1954, as the case may be."

<sup>13</sup> Sec. 401 of P. L. 84-880 substituted "chapter 21 of the Internal Revenue Code of 1954," in place of "subchapter A of Chapter 9 of the Internal Revenue Code of 1939."

<sup>14</sup> Sec. 401 of P. L. 84-880 added "or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be."

<sup>15</sup> See footnote 9.

<sup>16</sup> Sec. 401 of P. L. 84-880 added "or section 3121 (k) (1) of the Internal Revenue Code of 1954."

<sup>17</sup> See footnote 6.

<sup>18</sup> See footnote 7.

<sup>19</sup> See footnote 9.

with respect to any part of the remuneration paid to such individual by such organization for such service; and

(4) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall, upon the request of such individual (filed on or before January 1, 1959;<sup>20</sup> and in such form and manner, and with such official, as may be prescribed by regulations made under chapter 21 of the Internal Revenue Code of 1954<sup>21</sup>), be deemed to constitute remuneration for employment as defined in section 210 of the Social Security Act and section 1426 (b) of the Internal Revenue Code of 1939 or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be,<sup>22</sup> and such individual shall be deemed to have concurred in the filing of the waiver certificate filed by such organization under section 1426 (l) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954.<sup>23</sup>

#### STUDY OF FEASIBILITY OF PROVIDING INCREASED MINIMUM BENEFITS UNDER TITLE II

SEC. 404. (a) The Secretary of Health, Education, and Welfare shall conduct a full and complete study with a view to determining the feasibility of increasing the minimum old-age insurance benefit under title II of the Social Security Act to (1) \$55 per month, (2) \$60 per month, and (3) \$75 per month.

(b) Such study shall include (1) a detailed analysis of the estimated increase in cost, if any, involved in increasing such minimum benefit to each of the above referred to amounts, (2) estimates of the financial impact such increase would have upon the Old Age and Survivors Insurance Trust Fund, and (3) an estimate of the amount, if any, by which Federal grants to the States for public assistance would be reduced by reason of such increase in minimum old-age insurance benefits.

(c) The Secretary shall report to the Congress at the earliest practicable date the results of the study provided for by this section.

### SOCIAL SECURITY ACT AMENDMENTS OF 1956

#### CHILD'S INSURANCE BENEFITS FOR CHILDREN WHO ARE DISABLED BEFORE ATTAINING AGE EIGHTEEN

SEC. 101. (h) (1) The amendments made by this section, other than subsection (c), shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, but only, except as provided in paragraph (2), on the basis of an application filed after September 1956. For purposes of title II of the Social Security Act, as amended by this Act, an application for wife's, child's, or mother's insurance benefits under such title II filed, by reason of this paragraph, by an individual who was entitled to benefits prior to, but not for, December 1956 and whose entitlement terminated as a result of a child's attainment of age

<sup>20</sup> Sec. 401 of P. L. 84-880 changed "January 1, 1957" to "January 1, 1959."

<sup>21</sup> See footnote 13.

<sup>22</sup> See footnote 14.

<sup>23</sup> See footnote 16.



eighteen shall be treated as the application referred to in subsection (b), (d), and (g), respectively, of section 202 of such Act.

(2) In the case of an individual who was entitled, without the application of subsection (j) (1) of such section 202, to a child's insurance benefit under subsection (d) of such section for December 1956, such amendments shall apply with respect to benefits under such section 202 for months after December 1956.

\* \* \* \* \*

#### RETIREMENT AGE FOR WOMEN

SEC. 102. (b) (1) The amendment made by subsection (a) shall apply in the case of benefits under subsection (e) of section 202 of the Social Security Act for months after October 1956, but only, except in the case of an individual who was entitled to wife's or mother's insurance benefits under such section 202 for October 1956, or any month thereafter, on the basis of applications filed after the date of enactment of this Act. The amendment made by subsection (a) shall apply in the case of benefits under subsection (h) of such section 202 for months after October 1956 on the basis of applications filed after the date of enactment of this Act.

(2) Except as provided in paragraphs (1) and (4), the amendment made by subsection (a) shall apply in the case of lump-sum death payments under section 202 (i) of the Social Security Act with respect to deaths after October 1956, and in the case of monthly benefits under title II of such Act for months after October 1956 on the basis of applications filed after the date of enactment of this Act.

(3) For purposes of section 215 (b) (3) (B) of the Social Security Act (but subject to paragraphs (1) and (2) of this subsection)—

(A) a woman who attains the age of sixty-two prior to November 1956 and who was not eligible for old-age insurance benefits under section 202 of such Act (as in effect prior to the enactment of this Act) for any month prior to November 1956 shall be deemed to have attained the age of sixty-two in 1956 or, if earlier, the year in which she died;

(B) a woman shall not, by reason of the amendment made by subsection (a), be deemed to be a fully insured individual before November 1956 or the month in which she died, whichever month is the earlier; and

(C) the amendment made by subsection (a) shall not be applicable in the case of any woman who was eligible for old-age insurance benefits under such section 202 for any month prior to November 1956.

A woman shall, for purposes of this paragraph, be deemed eligible for old-age insurance benefits under section 202 of the Social Security Act for any month if she was or would have been, upon filing application therefor in such month, entitled to such benefits for such month.

\* \* \* \* \*

#### DISABILITY INSURANCE BENEFITS FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE ATTAINED AGE FIFTY

SEC. 103. (d) (2) For purposes of determining entitlement to a disability insurance benefit for any month after June 1957 and before

December 1957, an application for disability insurance benefits filed by any individual after July 1957 and before January 1958 shall be deemed to have been filed during the first month after June 1957 for which such individual would (without regard to this paragraph) have been entitled to a disability insurance benefit had he filed application before the end of such month.

\* \* \* \* \*

#### CERTAIN NONPROFESSIONAL SCHOOL DISTRICT EMPLOYEES

SEC. 104. (f) Notwithstanding the provisions of subsection (d) of section 218 of the Social Security Act, any agreement under such section entered into prior to the date of enactment of this Act by the State of Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, or the Territory of Hawaii shall if the State or Territory concerned so requests, be modified prior to July 1, 1957, so as to apply to services performed by employees of the respective public school districts of such State or Territory who, on the date such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection.

\* \* \* \* \*

#### EFFECTIVE DATES

(i) (1) The amendment made by subsection (a) shall apply with respect to service performed after 1956. The amendments made by paragraph (1) of subsection (c) shall apply with respect to service performed after 1954. The amendment made by paragraph (2) of subsection (c) shall apply with respect to taxable years ending after 1955. The amendment made by paragraph (3) of subsection (c) shall apply with respect to taxable years ending after 1954. The amendment made by subsection (d) shall apply with respect to taxable years ending after 1955. The amendment made by subsection (h) shall apply with respect to the same taxable years with respect to which the amendment made by section 201 (g) of this Act applies.

(2) (A) Except as provided in subparagraphs (B) and (C), the amendments made by subsection (b) shall apply only with respect to service performed after June 30, 1957, and only if—

(i) in the case of the amendment made by paragraph (1) of such subsection, the conditions prescribed in subparagraph (B) are met; and

(ii) in the case of the amendment made by paragraph (2) of such subsection, the conditions prescribed in subparagraph (C) are met.

(B) The amendment made by paragraph (1) of subsection (b) shall be effective only if—

(i) the Federal Home Loan Bank Board submits to the Secretary of Health, Education, and Welfare, and the Secretary approves, before July 1, 1957, a plan, with respect to employees of Federal Home Loan Banks, for the coordination, on an

equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act; and

(ii) such plan specifies, as the effective date of the plan, July 1, 1957, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956.

If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (1) of subsection (b) shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of a Federal Home Loan Bank on such day.

(C) The amendment made by paragraph (2) of subsection (b) shall be effective only if—

(i) the Board of Directors of the Tennessee Valley Authority submits to the Secretary of Health, Education, and Welfare, and the Secretary approves, before July 1, 1957, a plan, with respect to employees of the Tennessee Valley Authority, for the coordination, on an equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act; and

(ii) such plan specifies, as the effective date of the plan, July 1, 1957, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956.

If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (2) of subsection (b) shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of the Tennessee Valley Authority on such day.

(D) The Secretary of Health, Education, and Welfare shall, on or before July 31, 1957, submit a report to the Congress setting forth the details of any plan approved by him under subparagraph (B) or (C).

\* \* \* \* \*

#### DROP-OUT OF FIVE YEARS OF LOW EARNINGS

SEC. 109. (b) The amendment made by subsection (a) shall apply in the case of monthly benefits under section 202 of the Social Security Act, and the lump-sum death payment under such section, based on the wages and self-employment income of an individual—

(1) who becomes entitled to benefits under subsection (a) of such section on the basis of an application filed on or after the date of enactment of this Act; or

(2) who is (but for the provisions of subsection (f) (6) of section 215 of the Social Security Act) entitled to a recomputation of his primary insurance amount under subsection (f) (2) (A) of such section 215 based on an application filed on or after the date of enactment of this Act; or

(3) who dies without becoming entitled to benefits under subsection (a) of such section 202 and no individual was entitled to survivor's benefits and no lump-sum death payment was payable under such section 202 on the basis of an application filed prior to such date of enactment; or

(4) who dies on or after such date of enactment and whose survivors are (but for the provisions of subsection (f) (6) of such section 215) entitled to a recomputation of his primary insurance amount under subsection (f) (4) (A) of such section 215; or

(5) who dies prior to such date of enactment and (A) whose survivors are (but for the provisions of subsection (f) (6) of such section 215) entitled to a recomputation of his primary insurance amount under subsection (f) (4) (A) of such section 215, and (B) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits under such section 202, and no lump-sum death payment was payable under such section, on the basis of an application filed prior to such date of enactment and no individual was entitled to such a benefit, without the filing of an application for the month in which this Act is enacted or any month prior thereto.

#### SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS

SEC. 110. In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act) entitled to old-age insurance benefits in 1957 and with respect to whom not less than six of the quarters elapsing after 1955 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215 (a) (1) (A) of such Act, with a starting date of December 31, 1955, and a closing date of July 1, 1957, but only if it would result in a higher primary insurance amount. For the purposes of section 215 (f) (3) (C) of such Act, the determination of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215 (b) (3) (A) of such Act, and the recomputation provided for by such section 215 (f) (3) (C) shall be made using July 1, 1957, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1957, closing date, the total of his wages and self-employment income after December 31, 1956, shall, if it is in excess of \$2,100, be reduced to such amount.

\* \* \* \* \*

#### TIME LIMITATION ON FILING REQUESTS FOR HEARING

SEC. 111. (b) The amendment made by subsection (a) shall be effective upon enactment; except that the period of time prescribed by the Secretary pursuant to the third sentence of section 205 (b) of the Social Security Act, as amended by subsection (a) of this section, with respect to decisions notice of which has been mailed by him to any individual prior to the enactment of this Act may not terminate for such individual less than six months after the date of enactment of this Act.

\* \* \* \* \*

## COMPUTATION OF AVERAGE MONTHLY WAGE

SEC. 115. (d) The amendments made by this section shall apply in the case of an individual (1) who becomes entitled (without the application of section 202 (j) (1) of the Social Security Act) to benefits under section 202 (a) of such Act after the date of enactment of this Act, or (2) who dies without becoming entitled to benefits under such section 202 (a) and on the basis of whose wages and self-employment income an application for benefits or a lump-sum death payment under section 202 of such Act is filed after the date of enactment of this Act, or (3) who becomes entitled to benefits under section 223 of such Act, or (4) who files, after the date of enactment of this Act, an application for a disability determination which is accepted as an application for purposes of section 216 (i) of such Act.

## ADVISORY COUNCIL ON SOCIAL SECURITY FINANCING

SEC. 116. (a) There is hereby established an Advisory Council on Social Security Financing for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund and of the Federal Disability Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program.

(b) The Council shall be appointed by the Secretary after February 1957 and before January 1958 without regard to the civil-service laws and shall consist of the Commissioner of Social Security, as chairman, and of twelve other persons who shall, to the extent possible, represent employers and employees in equal numbers, and self-employed persons and the public.

(c) (1) The Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(2) Members of the Council, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding \$50 per day; and shall be entitled to receive actual and necessary traveling expenses and per diem in lieu of subsistence while so serving away from their places of residence.

(d) The Council shall make a report of its findings and recommendations (including recommendations for changes in the tax rates in sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954) to the Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, such report to be submitted not later than January 1, 1959, after which date such Council shall cease to exist. Such findings and recommendations shall be included in the annual report of the Board of Trustees to be submitted to the Congress not later than March 1, 1959.

(e) Not earlier than three years and not later than two years prior to January 1 of the first year for which each ensuing scheduled in-

crease (after 1960) in the tax rates is effective under the provisions of sections 3101 and 3111 of the Internal Revenue Code of 1954, the Secretary shall appoint an Advisory Council on Social Security Financing with the same functions, and constituted in the same manner, as prescribed in the preceding subsections of this section. Each such Council shall report its findings and recommendations, as prescribed in subsection (d), not later than January 1 of the year preceding the year in which such scheduled change in the tax rates occurs, after which date such Council shall cease to exist, and such report and recommendations shall be included in the annual report of the Board of Trustees to be submitted to the Congress not later than the March 1 following such January 1.

\* \* \* \* \*

#### DEFINITION OF SECRETARY

SEC. 119. As used in this Act and in the provisions of the Social Security Act set forth in this Act, the term "Secretary" means the Secretary of Health, Education, and Welfare.

\* \* \* \* \*

#### EFFECT ON BENEFITS OF CONVICTION OF ESPIONAGE, SABOTAGE, TREASON, SEDITION, OR SUBVERSIVE ACTIVITIES; EMPLOYMENT BY COMMUNIST ORGANIZATIONS

SEC. 121. (b) The amendment made by subsection (a) of this section shall not be construed to restrict or otherwise affect any of the provisions of the Act entitled "An Act to prohibit payments of annuities to officers and employees of the United States convicted of certain offenses, and for other purposes", approved September 1, 1954 (Public Law 769, Eighty-third Congress).

\* \* \* \* \*

#### EFFECTIVE DATES

SEC. 201. (m) (1) The amendments made by subsection (a) and paragraph (1) of subsection (h) shall apply with respect to remuneration paid after 1956. The amendment made by subsection (b) shall apply with respect to remuneration paid after October 1956. The amendments made by subsection (c) and paragraph (2) of subsection (h) shall apply with respect to service performed after 1956. The amendments made by paragraphs (1) and (2) of subsection (d) shall apply with respect to service with respect to which the amendments made by paragraphs (1) and (2) of subsection (b) of section 104 of this Act apply. The amendments made by paragraph (1) of subsection (e) shall apply with respect to service performed after 1954. The amendment made by paragraph (3) of such subsection shall apply with respect to taxable years ending after 1954. The amendments made by paragraph (2) of subsection (e) and by subsection (f) shall apply with respect to taxable years ending after 1955. The amendment made by subsection (i) shall apply with respect to taxable years ending on or after December 31, 1956. The amendment made by subsection (1) shall apply with respect to certificates filed after 1956 under section 3121 (k) of the Internal Revenue Code of 1954.

(2) (A) Except as provided in subparagraph (B), the amendment made by subsection (g) shall apply only with respect to taxable years ending after 1956.

(B) Any individual who, for a taxable year ending after 1954 and prior to 1957, had income which by reason of the amendment made by subsection (g) would have been included within the meaning of "net earnings from self-employment" (as such term is defined in section 1402 (a) of the Internal Revenue Code of 1954), if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402 (e) of such Code, may elect to have the amendment made by subsection (g) apply to his taxable years ending after 1954 and prior to 1957. No election made by any individual under this subparagraph shall be valid unless such individual has filed a waiver certificate under section 1402 (e) of such Code prior to the making of such election or files a waiver certificate at the time he makes such election.

(C) Any individual described in subparagraph (B) who has filed a waiver certificate under section 1402 (e) of such Code prior to the date of enactment of this Act, or who files a waiver certificate under such section on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957, must make such election on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957, or before April 16, 1957, whichever is the later.

(D) Any individual described in subparagraph (B) who has not filed a waiver certificate under section 1402 (e) of such Code on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957 must make such election on or before the due date of his return (including any extension thereof) for his first taxable year ending after 1956. Any individual described in this subparagraph whose period for filing a waiver certificate under section 1402 (e) of such Code has expired at the time he makes such election may, notwithstanding the provisions of paragraph (2) of such section, file a waiver certificate at the time he makes such election.

(E) An election under subparagraph (B) shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations. Notwithstanding the provisions of paragraph (3) of section 1402 (e) of such Code, the waiver certificate filed by an individual who makes an election under subparagraph (B) (regardless of when filed) shall be effective for such individual's first taxable year ending after 1954 in which he had income which by reason of the amendment made by subsection (g) would have been included within the meaning of "net earnings from self-employment" (as such term is defined in section 1402 (a) of such Code), if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402 (e) of such Code, or for the taxable year prescribed by such paragraph (3) of section 1402 (e), if such taxable year is earlier, and for all succeeding taxable years.

(F) No interest or penalty shall be assessed or collected for failure to file a return within the time prescribed by law, if such failure arises solely by reason of an election made by an individual under subparagraph (B), or for any underpayment of the tax imposed by section

1401 of such Code arising solely by reason of such election, for the period ending with the date such individual makes an election under subparagraph (B).

(3) Any tax under chapter 2 of the Internal Revenue Code of 1954 which is due, solely by reason of the enactment of subsection (f), or paragraph (2) of subsection (e), of this section, for any taxable year ending on or before the date of the enactment of this Act shall be considered timely paid if payment is made in full on or before the last day of the sixth calendar month following the month in which this Act is enacted. In no event shall interest be imposed on the amount of any tax due under such chapter solely by reason of the enactment of subsection (f), or paragraph (2) of subsection (e), of this section for any period before the day after the date of enactment of this Act.

(4) Any tax due under chapter 21 of the Internal Revenue Code of 1954 which is due, solely by reason of the enactment of subsection (d) and an effective date prescribed pursuant to paragraph (2) (B) or (2) (C) of section 104 (i), for any calendar quarter beginning prior to the day on which the Secretary of Health, Education, and Welfare approves the plan which prescribes such effective date shall be considered timely paid if payment is made in full on or before the last day of the sixth calendar month following the month in which such plan is approved. In no event shall interest be imposed on the amount of any such tax due under such chapter for any period before the day on which the Secretary of Health, Education, and Welfare approves such plan.

\* \* \* \* \*

#### DECLARATION OF PURPOSE

SEC. 300. It is the purpose of this title (a) to promote the health of the Nation by assisting States to extend and broaden their provisions for meeting the costs of medical care for persons eligible for public assistance by providing for separate matching of assistance expenditures for medical care, (b) to promote the well-being of the Nation by encouraging the States to place greater emphasis on helping to strengthen family life and helping needy families and individuals attain the maximum economic and personal independence of which they are capable, (c) to assist in improving the administration of public assistance programs (1) through making grants and contracts, and entering into jointly financed cooperative arrangements, for research or demonstration projects and (2) through Federal-State programs of grants to institutions and traineeships and fellowships so as to provide training of public welfare personnel, thereby securing more adequately trained personnel, and (d) to improve aid to dependent children.

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#### EFFECTIVE DATE

SEC. 305. (a) Except as provided in subsection (b), the amendments made by this part shall become effective July 1, 1957.

(b) The amendments made by any section of this part shall not apply to any State (as defined in section 1101 of the Social Security Act for purposes of title I thereof) for any fiscal year for which there is in effect an election by it not to have the amendments made by such section apply to it. Any such election shall be in effect for a fiscal year



only if notice of the election has been filed with the Secretary of Health, Education, and Welfare at some time prior to May 16 of the preceding fiscal year, except that any such election shall be in effect for the fiscal year beginning July 1, 1957, if notice of the election is filed with the Secretary prior to August 1, 1957. An election by a State under this subsection shall continue in effect until the close of any fiscal year designated in a notice of termination of such election which is filed with the Secretary of Health, Education, and Welfare prior to May 16 of such year. Elections hereunder shall be made, and notices thereof and notices of termination shall be filed, on such form or forms and in such manner as the Secretary of Health, Education, and Welfare may prescribe.

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#### EFFECTIVE DATE

SEC. 345. The amendments made by this part shall be effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendment cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted.

### SOCIAL SECURITY ACT AMENDMENTS OF 1957

P. L. 85-227 (71 Stat. 512) of August 30, 1957

SEC. 2. Notwithstanding subsection (f) of section 218 of the Social Security Act, any modification of the agreement with the State of California, Connecticut, Minnesota, or Rhode Island under such section which makes such agreement applicable to services performed in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) of such section (and consisting of the positions of members who desire coverage under the agreement) may, if such modification is agreed to prior to 1960, be made effective with respect to services performed in such positions after an effective date specified in such modification, except that in no case may such date be earlier than December 31, 1955.

\* \* \* \* \*

P. L. 85-238 (71 Stat. 518)

SEC. 3. (i) (2) The amendments made by subsection (f) shall not apply in the case of benefits under section 202 (h) of the Social Security Act, based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this Act is enacted, for any parent who filed the proof of support, required by such section 202 (h), in or prior to the month in which this Act is enacted; and the amendment to section 216 (h) (1) of such Act made by subsection (h) of this section shall not operate to deprive any such parent of benefits to which he would otherwise be entitled under section 202 (h) of such Act.

\* \* \* \* \*

SEC. 5. Where—

(a) one or more persons were entitled (without the application of section 202 (j) (1) of the Social Security Act) to parents' insur-

ance benefits under section 202 (h) of such Act for the month in which this Act is enacted on the basis of the wages and self-employment income of an individual;

(b) a person becomes entitled to a widow's, widower's or mother's insurance benefit under section 202 (e), (f), or (g) of the Social Security Act for any subsequent month on the basis of such wages and self-employment income;

(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act, on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203 (a) of such Act;

then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203 (a), to the amount it would have been—

(d) if, in the case of a parent's insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or

(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income.

\* \* \* \* \*

P. L. 85-239 (71 Stat. 521)

SEC. 1. (c) If a certificate filed pursuant to section 1402 (e) (3) (A) or (B) of the Internal Revenue Code of 1954 after the due date of the return (including any extension thereof) for any taxable year is effective for such taxable year or for any preceding taxable year, then—

(1) for purposes of computing interest, the due date for the payment of the increase in tax for such taxable year or years resulting from the filing of such certificate shall be the last day of the sixth month following the month in which such certificate is filed;

(2) the statutory period for the assessment of any deficiency attributable to such increase in tax shall not expire before the expiration of 3 years from such due date; and

(3) for purposes of section 6651 of such Code (relating to addition to tax for failure to file tax return), the amount of tax required to be shown on the return shall not include such increase in tax.

\* \* \* \* \*

SEC. 3. Remuneration which is deemed under section 1402 (e) (4) of the Internal Revenue Code of 1954 to constitute remuneration for employment shall also be deemed, notwithstanding sections 210 (a) (8) (A) and 211 (c) of the Social Security Act, to constitute remuneration for employment (and not net earnings from self-employment) for purposes of title II of such Act.

SEC. 4. (a) Section 3, and the amendments made by the first section of this Act, shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months beginning after,

and lump-sum death payments under such title in the case of deaths occurring after, the date of the enactment of this Act.

(b) Notwithstanding subsection (a), in the case of any individual who—

(1) (A) has remuneration which is deemed, by reason of section 3, to constitute remuneration for employment for purposes of title II of the Social Security Act, or

(B) has income which constitutes net earnings from self-employment under such title by reason of the filing of a certificate pursuant to section 1402 (e) (3) (A) or (B) of the Internal Revenue Code of 1954, and

(2) was entitled to monthly insurance benefits under title II of the Social Security Act for the month in which this Act is enacted,

section 3 and the amendments made by the first section of this Act shall apply with respect to monthly insurance benefits under such title based on his wages and self-employment income only if he, or any other person entitled to monthly insurance benefits under such title on the basis of such wages and self-employment income, files, on or after the date of enactment of this Act, an application for recomputation by reason of this Act. Such recomputation shall be made in the manner provided in title II of the Social Security Act as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount and as though the application therefor was filed in the month in which the application for such last previous computation or recomputation was filed. No recomputation under this subsection shall be regarded as a recomputation under section 215 (f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the application therefor is filed, but in no case for any month which begins on or prior to the date of the enactment of this Act. Any such recomputation shall be effective only if it results in a higher primary insurance amount.

(c) The preceding provisions of this section shall not render erroneous any monthly insurance benefits under title II of the Social Security Act for the month in which this Act is enacted or any prior month.

## SOCIAL SECURITY ACT AMENDMENTS OF 1958

P. L. 85-786 (72 Stat. 938)

SEC. 2. The amendment made by section 1 shall be applicable to remuneration paid after the enactment of this Act, except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act, the amendment made by section 1 shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218 (e) would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 been in effect on and after January 1, 1951. Failure by a State to make such

payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218 (e).

\* \* \* \* \*

P. L. 85-840 (72 Stat. 1013)

#### PRIMARY INSURANCE AMOUNT FOR CERTAIN DISABILITY INSURANCE BENEFICIARIES

SEC. 101. (h) If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act for December 1958, and became entitled to old-age insurance benefits under section 202 (a) of such Act, or died, in January 1959, then, for purposes of paragraph (4) of section 215 (a) of the Social Security Act, as amended by this Act, the amount in column IV of the table appearing in such section 215 (a) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under subsection (c) of such section 215) instead of the amount in column IV equal to his disability insurance benefit.

#### SAVING PROVISION

(i) In the case of any individual to whom the provisions of subsection (b) (5) of section 215 of the Social Security Act, as amended by this Act, are applicable and on the basis of whose wages and self-employment income benefits are payable for months prior to January 1959, his primary insurance amount for purposes of benefits for such prior months shall, if based on an application for such benefits or for a recomputation of such amount, as the case may be, filed after December 1958, be determined under such section 215, as in effect prior to the enactment of this Act and, if such individual's primary insurance amount as so determined is larger than the primary insurance amount determined for him under section 215 as amended by this Act, such larger primary insurance amount (increased to the next higher dollar if it is not a multiple of a dollar) shall, for months after December 1958, be his primary insurance amount for purposes of such section 215 (and of the other provisions) of the Social Security Act as amended by this Act in lieu of the amount determined without regard to this subsection.

\* \* \* \* \*

#### EFFECTIVE DATES

SEC. 207 (a) \* \* \* The amendments made by section 204 shall apply with respect to (1) applications for disability insurance benefits under such section 223 or for a disability determination under such section 216 (i) filed on or after the date of enactment of this Act, and (2) applications for such benefits or for such a determination filed after 1957 and prior to such date of enactment if the applicant has not died prior to such date of enactment and if notice to the applicant of the Secretary's decision with respect thereto has not been given to him on or prior to such date, except that (A) no benefits under title II of the Social Security Act for the month in which this Act is enacted or any prior month shall be payable or increased by reason of the amendments made by section 204 of this Act, and (B) the provisions of section 215 (f) (1) of the Social Security Act shall not prevent recomputation of monthly benefits under section 202 of such Act (but

no such recomputation shall be regarded as a recomputation for purposes of section 215 (f) of such Act) \* \* \*.

(b) In the case of any husband, widower, or parent who would not be entitled to benefits under section 202 (c), section 202 (f), and section 202 (h), respectively, of the Social Security Act except for the enactment of section 205 of this Act, the requirement in such section 202 (c), section 202 (f), or section 202 (h), as the case may be, that proof of support be filed within a two-year period shall not apply if such proof is filed within two years after the month in which this Act is enacted.

\* \* \* \* \*

#### DEATHS BEFORE EFFECTIVE DATE

##### SEC. 304. (b) Where—

(1) one or more persons were entitled (without the application of section 202 (j) (1) of the Social Security Act) to monthly benefits under section 202 of such Act for the month in which this Act is enacted on the basis of the wages and self-employment income of an individual; and

(2) a person is entitled to a parent's insurance benefit under section 202 (h) of the Social Security Act for any subsequent month on the basis of such wages and self-employment income and such person would not be entitled to such benefit but for the enactment of this section; and

(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203 (a) of such Act,

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be increased, after the application of such section 203 (a), to the amount it would have been if no person referred to in paragraph (2) of this subsection was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income.

#### PROOF OF SUPPORT IN CASES OF DEATHS BEFORE EFFECTIVE DATE

(c) In the case of any parent who would not be entitled to parent's benefits under section 202 (h) of the Social Security Act except for the enactment of this section, the requirement in such section 202 (h) that proof of support be filed within two years of the date of death of the insured individual referred to therein shall not apply if such proof is filed within the two-year period beginning with the first day of the month after the month in which this Act is enacted.

\* \* \* \* \*

#### EFFECTIVE DATES

SEC. 314 (c) (1). The amendment made by subsection (a) shall apply only with respect to (A) monthly benefits under sections 202 and 223 of the Social Security Act for months after the month in which this Act is enacted, (B) lump-sum death payments under such

section 202 in the case of deaths occurring after the month in which this Act is enacted, and (C) periods of disability under section 216 (i) in the case of applications for a disability determination filed after the month in which this Act is enacted.

(2) In the case of any individual—

(A) who is a World War II veteran (as defined in section 217 (d) (2) of the Social Security Act) wholly or partly by reason of service described in section 217 (h) (1) (A) of such Act; and

(B) who (i) became entitled to old-age insurance benefits under section 202 (a) of the Social Security Act or to disability insurance benefits under section 223 of such Act prior to the first day of the month following the month in which this Act is enacted, or (ii) died prior to such first day, and whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted, on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act; and

(C) any part of whose service described in section 217 (h) (1) (A) of the Social Security Act was not included in the computation of his primary insurance amount under section 215 of such Act but would have been included in such computation if the amendment made by subsection (a) of this section had been effective prior to the date of such computation,

the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act, recompute the primary insurance amount of such individual upon the filing of an application, after the month in which this Act is enacted, by him or (if he has died without filing such an application) by any person entitled to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this subsection shall be regarded as a recomputation under section 215 (f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for the month in which this Act is enacted or any prior month.

\* \* \* \* \*

#### TEACHERS IN THE STATE OF MAINE

SEC. 316. For the purposes of any modification which might be made after the date of enactment of this Act and prior to July 1, 1960, by the State of Maine of its existing agreement made under section 218 of the Social Security Act, any retirement system of such State which covers positions of teachers and positions of other employees shall, if such State so desires, be deemed (notwithstanding the provisions of subsection (d) of such section) to consist of a separate retirement system with respect to the positions of such teachers and a separate retirement system with respect to the positions of such other employees; and for the purposes of this sentence, the term "teacher" shall

mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory.

\* \* \* \* \*

SEC. 403. (b) (2) In the case of an individual who died after 1955 and on or before the date of enactment of this Act, the amendment made by subsection (a) shall apply only if—

(A) Before January 1, 1960, there is filed a return (or amended return) of the tax imposed by chapter 2 of the Internal Revenue Code of 1954 for the taxable year ending as a result of his death, and

(B) In any case where the return is filed solely for the purpose of reporting net earnings from self-employment resulting from the amendment made by subsection (a), the return is accompanied by the amount of tax attributable to such net earnings.

\* \* \* \* \*

SEC. 512. Notwithstanding the provisions of sections 305 and 345 of the Social Security Amendments of 1956, as amended, the amendments made by sections 501, 502, 503, 504, 505, and 506 shall be effective—

(1) in the case of money payments, under a State plan approved under title I, IV, X, or XIV of the Social Security Act, for months after September 1958, and

(2) in the case of assistance in the form of medical or any other type of remedial care, under such a plan, with respect to expenditures made after September 1958.

The amendment made by section 506 shall also become effective, for purposes of title V of the Social Security Act, for fiscal years ending after June 30, 1959. The amendments made by section 507 shall be effective for fiscal years ending after June 30, 1958. The amendment made by section 508 shall be effective for fiscal years ending after June 30, 1959. The amendment made by section 510 shall become effective October 1, 1958.

\* \* \* \* \*

SEC. 702. As used in the provisions of the Social Security Act amended by this Act, the term "Secretary", unless the context otherwise requires, means the Secretary of Health, Education, and Welfare.

\* \* \* \* \*

SEC. 704. (a) There is hereby established an Advisory Council on Public Assistance for the purpose of reviewing the status of the public assistance program in relation to the old-age, survivors, and disability insurance program, the fiscal capacities of the States and the Federal Government, and any other factors bearing on the amount and proportion of the Federal and States shares in the public assistance program.

(b) The Council shall be appointed by the Secretary before January 1959 without regard to the civil-service laws and shall consist of the Commissioner of Social Security, as chairman, and of twelve other persons who shall, to the extent possible, represent employers and employees in equal numbers, persons concerned with the administration or financing of the State and Federal programs, other persons with special knowledge, experience, or qualifications with respect to the program, and the public.

(c) (1) The Council is authorized to engage such technical assistance, as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(2) Members of the Council, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding \$50 per day; and shall be entitled to receive actual and necessary traveling expenses and per diem in lieu of subsistence while so serving away from their places of residence.

(d) The Council shall make a report of its findings and recommendations (including recommendations for changes in the provisions of sections 3, 403, 1003, and 1403 of the Social Security Act) to the Secretary and the Congress, such report to be submitted not later than January 1, 1960, after which date such Council shall cease to exist.

SEC. 705. (a) There is hereby established an Advisory Council on Child-Welfare Services for the purpose of making recommendations and advising the Secretary of Health, Education, and Welfare in connection with the effectuation of the provisions of part 3 of title V of the Social Security Act, as amended by the Social Security Amendments of 1958.

(b) The Council shall be appointed by the Secretary before January 1959, without regard to the civil-service laws, and shall consist of twelve persons representative of public, voluntary, civic, religious, and professional welfare organizations and groups, or other persons with special knowledge, experience, or qualifications with respect to child-welfare services, and the public.

(c) (1) The Secretary shall make available to the Council such secretarial, clerical, and other assistance and such other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(2) Members of the Council, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding \$50 per day; and shall be entitled to receive actual and necessary traveling expenses and per diem in lieu of subsistence while so serving away from their places of residence.

(d) The Council shall make a report of its findings and recommendations (including recommendations for changes in the provisions of part 3 of title V of the Social Security Act) to the Secretary and to the Congress on or before January 1, 1960, after which date such Council shall cease to exist.



# REPEALED PROVISIONS OF THE SOCIAL SECURITY ACT

## SOCIAL SECURITY ACT OF 1935

[Note.—The following sections of the original Social Security Act remain effective as indicated in footnotes to the text.]

### TITLE II—FEDERAL OLD-AGE BENEFITS <sup>1</sup>

#### DEFINITIONS <sup>2</sup>

SEC. 210. When used in this title—

(a) The term “wages” means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such terms shall not include that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term “employment” <sup>3</sup> means any service of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor; <sup>4</sup>

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer’s trade or business;

(4) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

<sup>1</sup> This title as amended is shown beginning at p. 9.

<sup>2</sup> These definitions of “wages” and “employment” remain effective as to services performed in 1937, 1938, or 1939. See secs. 209 and 210 of the Social Security Act, as amended, pp. 51 and 54, respectively, and former sec. 209 (a) and (b), pp. 197 and 198, respectively.

<sup>3</sup> See sec. 902 (f) of Social Security Act Amendments of 1939, p. 160, with respect to exemption of service performed prior to January 1, 1940, in the employ of foreign governments and their wholly owned instrumentalities.

Sec. 17 of the Railroad Retirement Act of 1937 modified the term “employment” as used above as follows:

“The term ‘employment,’ as defined in subsection (b) of section 210 of Title II of the Social Security Act, shall not include service performed by an individual as an employee as defined in section 1 (b).”

<sup>4</sup> See sec. 2 of the Act of August 11, 1939, p. 351, with respect to exemption of service performed prior to January 1, 1940, in clearing land after a hurricane.

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

## EXCERPTS FROM THE SOCIAL SECURITY ACT, AS AMENDED, PRIOR TO 1950 AMENDMENTS

SECTION 201. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund" (hereinafter in this titled called the "Trust Fund"). The Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Trust Fund, and, in addition, such amounts as may be appropriated to the Trust Fund as hereinafter provided. There is hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of the taxes (including interest, penalties, and additions to the taxes) received under the Federal Insurance Contributions Act and covered into the Treasury. There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.<sup>5</sup>

\* \* \* \* \*

### LUMP-SUM DEATH PAYMENTS

Sec. 202. (g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the person, if any, determined by the Administrator to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual.<sup>6</sup>

<sup>5</sup> The last sentence of this subsec. was added by sec. 902 of the Revenue Act of 1943 (58 Stat. 93).

<sup>6</sup> See sec. 101 (d) of Social Security Act Amendments of 1950 which extended the time for filing an application under sec. 202 (g) in certain cases (p. 160).

## DEFINITIONS

SEC. 209. When used in this title—

(a) The term “wages”<sup>7</sup> means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such terms shall not include—

(1) That part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year prior to 1940, is paid, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year;<sup>8</sup>

(2) That part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual, prior to January 1, 1947, with respect to employment during such calendar year;<sup>8</sup>

(3) That part of the remuneration which, after remuneration equal to \$3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;<sup>9</sup>

(4) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(5) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code or (B) of any payment required from an employee under a State unemployment compensation law;

(6) Dismissal payments which the employer is not legally required to make; or

(7) Any remuneration paid to an individual prior to January 1, 1937.

<sup>7</sup> For definition of the term “wages” effective prior to January 1, 1940, see sec. 210 (a) of the Social Security Act of 1935, p. 195. For present definition see sec. 209, p. 51.

<sup>8</sup> The phrase “prior to January 1, 1947” was added by the Social Security Act Amendments of 1946.

<sup>9</sup> This paragraph was added by the Social Security Act Amendments of 1946.

(b) The term "employment"<sup>10</sup> means any service performed after December 31, 1936, and prior to January 1, 1940, which was employment as defined in section 210 (b) of the Social Security Act prior to January 1, 1940 (except service performed by an individual after he attained the age of sixty-five if performed prior to January 1, 1939), and any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

(1) Agricultural labor (as defined in subsection (1) of this section);

(2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;

(6) Service performed in the employ of the United States Government, or of an instrumentality of the United States which is (A) wholly owned by the United States, or (B) exempt from the tax imposed by section 1410 of the Internal Revenue Code by virtue of any other provision of laws;<sup>11</sup>

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 1410 of the Internal Revenue Code;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(9) Service performed by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code;<sup>12</sup>

<sup>10</sup> For definition of the term "employment," effective prior to January 1, 1940, see sec. 210 (b) of the Social Security Act of 1935, p. 195. For present definition, see pp. 54-64.

<sup>11</sup> Certain service in the employment of the Alien Property Custodian does not come within this exception. See sec. 36 (a) of the Trading With the Enemy Act, as amended (p. 375).

<sup>12</sup> For provisions for crediting railroad industry service under the Social Security Act in certain cases, see sec. 205 (c), p. 48.

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Internal Revenue Code, if—

(i) the remuneration for such service does not exceed \$45, or

(ii) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association, or

(iii) such service is performed by a student who is enrolled, and is regularly attending classes at a school, college, or university;

(B) Service performed in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (l) of the Internal Revenue Code;

(C) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (ii) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(D) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(E) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101 of the Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed \$45 (exclusive of room, board, and tuition);

(11) Service performed in the employ of a foreign government including service as a consular or other officer or employee or a nondiplomatic representative;

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service

performed in the foreign country by employees of the United States Government and of instrumentalities thereof;<sup>13</sup>

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

(14) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazine are to be sold by him at a fixed price his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or<sup>14</sup>

(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act.<sup>15</sup>

(c) If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which

<sup>13</sup> Exemption from taxes of services described in pars. (11) and (12), which were added by the Social Security Act Amendments of 1939, was made retroactive to January 1, 1937. See sec. 902 (f) of Social Security Act Amendments of 1939, p. 160.

<sup>14</sup> Subpar. (B) was added by the Act of April 20, 1948 (Public Law 492, 80th Cong.), to be effective with respect to services performed thereafter.

<sup>15</sup> This paragraph was added, effective January 1, 1946, by the International Organizations Immunities Act (59 Stat. 669). See p. 374 for other provisions of this Act.

a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (b).

(d) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

(e) The term "primary insurance benefit" means an amount equal to the sum of the following—

(1) (A) 40 per centum of the amount of an individual's average monthly wage if such average monthly wage does not exceed \$50, or (B) if such average monthly wage exceeds \$50, 40 per centum of \$50, plus 10 per centum of the amount by which such average monthly wage exceeds \$50 and does not exceed \$250, and

(2) an amount equal to 1 per centum of the amount computed under paragraph (1) multiplied by the number of years in which \$200 or more of wages were paid to such individual. Where the primary insurance benefit thus computed is less than \$10, such benefit shall be \$10.

(f) The term "average monthly wage" means the quotient obtained by dividing the total wages paid an individual before the quarter in which he died or became entitled to receive primary insurance benefits, whichever first occurred, by three times the number of quarters lapsing after 1936 and before such quarter in which he died or became so entitled, excluding any quarter prior to the quarter in which he attained the age of twenty-two during which he was paid less than \$50 of wages and any quarter, after the quarter in which he attained age sixty-five, occurring prior to 1939.

(g) The term "fully insured individual" means any individual with respect to whom it appears to the satisfaction of the Administrator <sup>18</sup> that—

(1) He had not less than one quarter of coverage for each two of the quarters lapsing after 1936, or after the quarter in which he attained the age of twenty-one, whichever quarter is later, and up to but excluding the quarter in which he attained the age of sixty-five, or died, whichever first occurred, and in no case less than six quarters of coverage; or

(2) He had at least forty quarters of coverage.

As used in this subsection, and in subsection (h) of this section, the term "quarter" and the term "calendar quarter" means a period of three calendar months ending on March 31, June 30, September 30, or December 31; and the term "quarter of coverage" means a calendar quarter in which the individual has been paid not less than \$50 in wages. When the number of quarters specified in paragraph (1) of this subsection is an odd number, for purposes of such paragraph such number shall be reduced by one. In any case where an individual has been paid in a calendar year \$3,000 or more in wages, each quarter

<sup>18</sup> See Reorganization Plan No. 1 of 1953, p. 332.

of such year following his first quarter of coverage shall be deemed a quarter of coverage, excepting any quarter in such year in which such individual dies or becomes entitled to a primary insurance benefit and any quarter succeeding such quarter in which he died or became so entitled.

(h) The term "currently insured individual" means any individual with respect to whom it appears to the satisfaction of the Administrator that he had not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter.

\* \* \* \* \*

(1) The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple sirup or maple sugar or any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act,<sup>17</sup> as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

\* \* \* \* \*

<sup>17</sup> Sec. 15 (g) of the Agricultural Marketing Act defines "agricultural commodity" to include "in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum, spirits of turpentine, and gum resin, \* \* \*."



(o) (1) OFFICERS AND MEMBERS OF CREWS EMPLOYED BY WAR SHIPPING ADMINISTRATION.—The term “employment” shall include such service as is determined by the Administrator, War Shipping Administration, to be performed after September 30, 1941, and prior to the termination of title I of the First War Powers Act, 1941, on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration or, in respect to such service performed before February 11, 1942, the United States Maritime Commission, but shall not include any such service performed (1) under a contract entered into without the United States and during the performance of which the vessel does not touch at a port in the United States, or (2) on a vessel documented under the laws of any foreign country and bareboat chartered to the War Shipping Administration.

(2) The Federal Security Administrator shall not make determinations as to whether an individual has performed services which are employment by reason of this subsection, or the periods of such services, or the amounts of remuneration for such services, or the periods in which or for which such remuneration was paid, but shall accept the determinations with respect thereto of the Administrator, War Shipping Administration, and such agents as he may designate, as evidenced by returns filed by such Administrator as an employer pursuant to section 1426 (i) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(3) The Administrator, War Shipping Administration, is authorized and directed, upon written request of the Federal Security Administrator to make certification to him with respect to any matter determinable for the Federal Security Administrator by the War Shipping Administrator under this subsection, which the Federal Security Administrator finds necessary in administering this title.

(4) This subsection shall be effective as of September 30, 1941.<sup>18</sup>

(p) (1) The term “employment” shall include such service as is determined by the Bonneville Power Administrator (hereinafter called Administrator) to be performed after December 31, 1945, by a laborer, mechanic, or workman, in connection with construction work or the operation and maintenance of electrical facilities, as an employee performing service for the Administrator, but shall not include any service performed by such a laborer, mechanic, or workman to whom the Act of May 29, 1930 (46 Stat. 468), as amended, applies.

(2) The Federal Security Administrator shall not make determinations as to whether an individual has performed services which are employment by reason of this subsection, the periods of such services, the amounts of remuneration for such services which constitutes “wages” under the provisions of this section, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the Administrator, and such agents as he may designate, as evidenced by returns filed by the Administrator as an employer pursuant to section 1426 (j) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

<sup>18</sup> Subsec. (o) was added by the Act of March 24, 1943 (57 Stat. 45), and amended by the Act of April 4, 1944 (58 Stat. 188). See also sec. 1 (a) of the Act of March 24, 1943, p. 351.

(3) The Administrator is authorized and directed, upon written request of the Federal Security Administrator, to make certification to him with respect to any matter determinable for the Federal Security Administrator by the Administrator under this subsection, which the Federal Security Administrator finds necessary in administering this title.<sup>19</sup>

(q) Subject to such limitation as may be prescribed by regulation, the Administrator shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed.<sup>20</sup>

(r) With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than \$100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than \$100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

\* \* \* \* \*

#### DEFINITIONS

SEC. 1101. (a) When used in this Act— \* \* \*

(6) The term "employee" includes an officer of a corporation, but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules.<sup>21</sup>

<sup>19</sup> Subsec. (p) was added by the Act of October 23, 1945 (59 Stat. 546). Subsecs. (q) and (r) were added by the Social Security Act Amendments of 1946, effective August 10, 1946.

<sup>20</sup> See footnote 19.

<sup>21</sup> The exclusion from the definition of "employee" of the individuals specified in clauses (1) and (2) of subpar. (6) was made by subsec. (a) of sec. 2 of the Act of June 14, 1948 (Public Law 642, 80th Cong.). Subsecs. (b) and (c) of that section read:

"(b) The amendment made by subsection (a) shall have the same effect as if included in the Social Security Act on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any (1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this Act or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this Act in the case of individuals who have attained age sixty-five or who have died prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935.

"(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act which would not have been paid had the amendment made by subsection (a) been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b).

"(2) There is hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1) "

**EXCERPTS FROM THE SOCIAL SECURITY ACT, AS  
AMENDED, PRIOR TO THE 1954 AMENDMENTS****REDUCTION OF INSURANCE BENEFITS****MAXIMUM BENEFITS**

SEC. 203. (a) Whenever the total monthly benefits to which individuals are entitled under section 202 for a month on the basis of the wages and self-employment income of an insured individual exceeds \$168.75, or is more than \$45 and exceeds 80 per centum of his average monthly wage (as determined under subsection (b) or (c) of section 215, whichever is applicable), such total of benefits shall, after any deductions under this section, be reduced to \$168.75 or to 80 per centum of his average monthly wage, whichever is the lesser, but in no case to less than \$45, except that when any of such individuals so entitled would (but for the provisions of section 202 (k) (2) (A)) be entitled to child's insurance benefits on the basis of the wages and self-employment income of one or more other insured individuals, such total of benefits shall, after any deductions under this section, be reduced to \$168.75 or to 80 per centum of the sum of the average monthly wages of all such insured individuals, whichever is the lesser, but in no case to less than \$45. Whenever a reduction is made under this subsection, each benefit, except the old-age insurance benefit, shall be proportionately decreased.<sup>22</sup>

**DEDUCTIONS ON ACCOUNT OF WORK OR FAILURE TO HAVE CHILD  
IN CARE**

(b) Deductions in such amounts and at such time or times as the Administrator<sup>23</sup> shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under section 202 for any month—

(1) in which such individual is under age of seventy-five and in which he rendered services for wages (as determined under section 209 without regard to subsection (a) thereof) of more than \$75; or

(2) in which such individual is under the age of seventy-five and for which month he is charged, under the provisions of subsection (e) of this section, with net earnings from self-employment of more than \$75; or

(3) in which such individual, if a wife under retirement age entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit; or

(4) in which such individual, if a widow entitled to a mother's insurance benefit, did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

(5) in which such individual, if a former wife divorced entitled to a mother's insurance benefit, did not have in her care a child, of her deceased former husband, who (A) is her son, daughter,

<sup>22</sup> Sec. 2 (b) (2) of the 1952 Amendments amended sec. 203 (a) by substituting "\$168.75" and "\$45" for "\$150" and "\$40," respectively, wherever they appeared in such sec. 203 (a) of the Act, as amended by the 1950 Amendments.

<sup>23</sup> See Reorganization Plan No. 1 of 1953, p. 332.

or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

**DEDUCTIONS FROM DEPENDENT'S BENEFITS BECAUSE OF WORK BY OLD-AGE INSURANCE BENEFICIARY**

(c) Deduction shall be made from any wife's, husband's, or child's insurance benefit to which a wife, husband, or child is entitled, until the total of such deductions equals such wife's, husband's or child's insurance benefit or benefits under section 202 for any month—

(1) in which the individual, on the basis of whose wages and self-employment income such benefit was payable, is under the age of seventy-five and in which he rendered services for wages (as determined under section 209 without regard to subsection (a) thereof) of more than \$75; or

(2) in which the individual referred to in paragraph (1) is under the age of seventy-five and for which month he is charged, under the provisions of subsection (e) of this section, with net earnings from self-employment of more than \$75.

**OCCURRENCE OF MORE THAN ONE EVENT**

(d) If more than one of the events specified in subsections (b) and (c) occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted. The charging of net earnings from self-employment to any month shall be treated as an event occurring in the month to which such net earnings are charged.

**MONTHS TO WHICH NET EARNINGS FROM SELF-EMPLOYMENT ARE CHARGED**

(e) For the purposes of subsections (b) and (c)—

(1) If an individual's net earnings from self-employment for his taxable year are not more than the product of \$50 times the number of months in such year, no month in such year shall be charged with more than \$75 of net earnings from self-employment.

(2) If an individual's net earnings from self-employment for his taxable year are more than the product of \$75 times the number of months in such year, each month of such year shall be charged with \$75 of net earnings from self-employment, and the amount of such net earnings in excess of such product shall be further charged to months as follows: The first \$75 of such excess shall be charged to the last month of such taxable year, and the balance, if any, of such excess shall be charged at the rate of \$75 per month to each preceding month in such year until all of such balance has been applied, except that no part of such excess shall be charged to any month (A) for which such individual was not entitled to a benefit under this title, (B) in which an event described in paragraph (1), (3), (4), or (5) of subsection (b) occurred, (C) in which such individual was age seventy-five or over, or (D) in which such individual did not engage in self-employment.

(3) (A) As used in paragraph (2), the term "last month of such taxable year" means the latest month in such year to which the charging of the excess described in such paragraph is not prohibited by the application of clauses (A), (B), (C), and (D) thereof.

(B) For the purposes of clause (D) of paragraph (2), an individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Administrator that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing his net earnings from self-employment for any taxable year. The Administrator shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

#### PENALTY FOR FAILURE TO REPORT CERTAIN EVENTS

(f) Any individual in receipt of benefits subject to deduction under subsection (b) or (c) (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event specified therein (other than an event described in subsection (b) (2) or (c) (2)), shall report such occurrence to the Administrator prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred. Any such individual having knowledge thereof, who fails to report any such occurrence, shall suffer an additional deduction equal to that imposed under subsection (b) or (c), except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month.

#### REPORT TO ADMINISTRATOR OF NET EARNINGS FROM SELF-EMPLOYMENT

(g) (1) If an individual is entitled to any monthly insurance benefit under section 202 during any taxable year in which he has net earnings from self-employment in excess of the product of \$75 times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Administrator of his net earnings from self-employment for such taxable year. Such report shall be made on or before the fifteenth day of the third month following the close of such year, and shall contain such information and be made in such manner as the Administrator may by regulations prescribe. Such report need not be made for any taxable year beginning with or after the month in which such individual attained the age of seventy-five.

(2) If an individual fails to make a report required under paragraph (1), within the time prescribed therein, of his net earnings from self-employment for any taxable year and any deduction is imposed under subsection (b) (2) by reason of such net earnings—

(A) such individual shall suffer one additional deduction in an amount equal to his benefit or benefits for the last month in

such taxable year for which he was entitled to a benefit under section 202; and

(B) if the failure to make such report continues after the close of the fourth calendar month following the close of such taxable year, such individual shall suffer an additional deduction in the same amount for each month during all or any part of which such failure continues after such fourth month;

except that the number of the additional deductions required by this paragraph shall not exceed the number of months in such taxable year for which such individual received and accepted insurance benefits under section 202 and for which deductions are imposed under subsection (b) (2) by reason of such net earnings from self-employment. If more than one additional deduction would be imposed under this paragraph with respect to a failure by an individual to file a report required by paragraph (1) and such failure is the first for which any additional deduction is imposed under this paragraph, only one additional deduction shall be imposed with respect to such first failure.

(3) If the Administrator determines, on the basis of information obtained by or submitted to him, that it may reasonably be expected that an individual entitled to benefits under section 202 for any taxable year will suffer deductions imposed under subsection (b) (2) by reason of his net earnings from self-employment for such year, the Administrator may, before the close of such taxable year, suspend the payment for each month in such year (or for only such months as the Administrator may specify) of the benefits payable on the basis of such individual's wages and self-employment income; and such suspension shall remain in effect with respect to the benefits for any month until the Administrator has determined whether or not any deduction is imposed for such month under subsection (b). The Administrator is authorized, before the close of the taxable year of an individual entitled to benefits during such year, to request of such individual that he make, at such time or times as the Administrator may specify, a declaration of his estimated net earnings from self-employment for the taxable year and that he furnish to the Administrator such other information with respect to such net earnings as the Administrator may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this paragraph that it may reasonably be expected that the individual will suffer deductions imposed under subsection (b) (2) by reason of his net earnings from self-employment for such year.<sup>24</sup>

(h) \* \* \*

#### DEDUCTIONS WITH RESPECT TO CERTAIN LUMP-SUM PAYMENTS

(i) Deductions shall also be made from any old-age insurance benefit to which an individual is entitled, or from any other insurance benefit payable on the basis of such individual's wages and self-employment income, until such deductions total the amount of any lump sum paid to such individual under section 204 of the Social Security Act in force

<sup>24</sup> Sec. 4 of the 1952 Amendments substituted in sec. 203 (b) through (g) "\$75" for "\$50" wherever the latter figure appeared in such sections of the Act, as amended by the 1950 Amendments. For effective date of such sec. 4 of the 1952 Amendments, see subsec. (e) thereof, p. 163.

prior to the date of enactment of the Social Security Act Amendments of 1939.

\* \* \* \* \*

#### DEFINITION OF WAGES

SEC. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) That part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$3,600 with respect to employment has been paid to an individual during any calendar year, is paid to such individual during such calendar year;

\* \* \* \* \*

(g) (1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in the quarter for such service is less than \$50 or the employee is not regularly employed by the employer in such quarter of payment. For the purposes of this paragraph, an employee shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during the quarter the employee performs for the employer for some portion of the day domestic service in a private home of the employer, or (B) the employee was regularly employed (as determined under clause (A)) by the employer in the performance of such service during the preceding calendar quarter. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 210 (f) (5);

(h) Remuneration paid in any medium other than cash for agricultural labor;

\* \* \* \* \*

#### DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it

touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (e)); except that, in the case of service performed after 1950, such term shall not include—

(1) (A) Agricultural labor (as defined in subsection (f) of this section) performed in any calendar quarter by an employee, unless the cash remuneration paid for such labor (other than service described in subparagraph (B)) is \$50 or more and such labor is performed for an employer by an individual who is regularly employed by such employer to perform such agricultural labor. For the purposes of this subparagraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(i) such individual preforms agricultural labor (other than service described in subparagraph (B)) for such employer on a full-time basis on sixty days during such quarter, and

(ii) the quarter was immediately preceded by a qualifying quarter.

For the purposes of the preceding sentence, the term "qualifying quarter" means (I) any quarter during all of which such individual was continuously employed by such employer, or (II) any subsequent quarter which meets the test of clause (i) if, after the last quarter during all of which such individual was continuously employed by such employer, each intervening quarter met the test of clause (i). Notwithstanding the preceding provisions of this subparagraph, an individual shall also be deemed to be regularly employed by an employer during a calendar quarter if such individual was regularly employed (upon application of clauses (i) and (ii)) by such employer during the preceding calendar quarter.

(B) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton;

(C) Service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended.<sup>25</sup>

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

<sup>25</sup> This exclusion from coverage was added by sec. 505 (a) of the Agricultural Act of 1949, as amended by the Act of July 12, 1951 (Public Law 78, 82d Cong.). The exclusion applies only to workers from Mexico and it was not effective after 1953 since no workers may be made available under title V of such Agricultural Act for employment after December 31 of that year (but see sec. 509 of that Act, p. 247). This new clause relates to services performed by Mexican workers under contracts for "agricultural employment" entered into under such title V. Sec. 507 of the Agricultural Act of 1949, as amended, defines agricultural employment as including "services or activities included within the provisions of sec. 3 (f) of the Fair Labor Standards Act of 1938, as amended, or section 1426 of the Internal Revenue Code, as amended, horticultural employment, cotton ginning, compressing and storing, crushing of oil seeds, and the packing, canning, freezing, drying, or other processing of perishable or seasonable agricultural products."

For other provisions of title V of the Agricultural Act of 1949, as amended by the Act of July 12, 1951, see p. 333.



(3) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (B) such individual was regularly employed (as determined under clause (A)) by such employer in the performance of such service during the preceding calendar quarter. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in subsection (f) (5);

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if the individual is employed on and in connection with such vessel or aircraft when outside the United States;

(6) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 of the Internal Revenue Code by virtue of any provision of law which specifically refers to such section in granting such exemption;

(7) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code on December 31, 1950, except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration; or

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of

Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; (C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner, of or to the Congress;

(ii) in the legislative branch;

(iii) in the field service of the Post Office Department unless performed by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is serving under a temporary appointment pending final determination of eligibility for permanent or indefinite appointment;

(iv) in or under the Bureau of the Census of the Department of Commerce by temporary employees employed for the taking of any census;

(v) by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is paid on a contract or fee basis;

(vi) by any individual as an employee receiving nominal compensation of \$12 or less per annum;

(vii) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(viii) by any individual as a consular agent appointed under authority of section 551 of the Foreign Service Act of 1946 (22 U. S. C., sec. 951);

(ix) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government; 5 U. S. C., sec. 1052);

(x) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(xi) by any individual as an employee who is employed under a Federal relief program to relieve him from unemployment;

(xii) as a member of a State, county, or community committee under the Production and Marketing Administration or of any other board, council, committee, or other similar body, unless such board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(xiii) by an individual to whom the Civil Service Retirement Act of 1930 does not apply because such individual is subject to another retirement system;

(S) Service (other than service included under an agreement under section 218 and other than service which, under subsection (I), constitutes covered transportation service) performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions;

(9) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) Service performed in the employ of a religious, charitable, educational, or other organization exempt from income tax under section 101 (6) of the Internal Revenue Code, but this subparagraph shall not apply to service performed during the period for which a certificate filed pursuant to section 1426 (1) of the Internal Revenue Code, is in effect if such service is performed by an employee (i) whose signature appears on the list filed by such organization under such section 1426 (1), or (ii) who became an employee of such organization after the calendar quarter in which the certificate was filed;

(10) Service performed by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code;<sup>26</sup>

(11) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Internal Revenue Code, if the remuneration for such service is less than \$50;

(B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(12) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(13) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

(15) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic

<sup>26</sup> Sec. 5 (k) of the Railroad Retirement Act of 1937 (50 Stat. 307), as amended by the Act of October 30, 1951 (65 Stat. 683), provides that this paragraph shall not be operative with respect to certain employees. See p. 343.

forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(16) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

(17) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669).<sup>27</sup>

\* \* \* \* \*

#### SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

(a) The term "net earnings from self-employment" means the gross income, as computed under Chapter 1 of the Internal Revenue Code, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such chapter which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 183 of such code, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) There shall be excluded rentals from real estate (including personal property leased with the real estate) and deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer;

(2) There shall be excluded income derived from any trade or business in which, if the trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 210 (f); and there shall be excluded all deductions attributable to such income;

(3) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a govern-

<sup>27</sup> See p. 374.

ment or political subdivision thereof), unless such dividends and interest (other than interest described in section 25 (a) of the Internal Revenue Code) are received in the course of a trade or business as a dealer in stocks or securities;

(4) There shall be excluded any gain or loss (A) which is considered under chapter 1 of the Internal Revenue Code as gain or loss from the sale or exchange of a capital asset, (B) from the cutting or disposal of timber if section 117 (j) of such code is applicable to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(5) The deduction for net operating losses provided in section 23 (s) of such code shall not be allowed;

(6) (A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife;

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(7) (A) In the case of any taxable year beginning before the effective date specified in section 219, the term "possession of the United States" when used in section 251 of the Internal Revenue Code with respect to citizens of the United States shall include Puerto Rico;

(B) In the case of any taxable year beginning on or after the effective date specified in section 219, a resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 116 (l) of such code.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year.

(b) The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a non-resident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which

is in excess of: (A) \$3,600, minus (B) the amount of the wages paid to such individual during the taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than \$100.

In the case of any taxable year beginning prior to the effective date specified in section 219, an individual who is a citizen of Puerto Rico (but not otherwise a citizen of the United States) and who is not a resident of the United States during such taxable year shall be considered, for the purposes of this subsection, as a nonresident alien individual. An individual who is not a citizen of the United States but who is a resident of the Virgin Islands or (after the effective date specified in section 219) a resident of Puerto Rico shall not, for the purposes of this subsection, be considered to be a nonresident alien individual.

(c) The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 23 of the Internal Revenue Code, except that such term shall not include—

(1) The performance of the functions of a public office;

(2) The performance of service by an individual as an employee (other than service described in section 210 (a) (16) (B) performed by an individual who has attained the age of eighteen);

(3) The performance of service by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(5) The performance of service by an individual in the exercise of his profession as a physician, lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, optometrist, Christian Science practitioner, architect, certified public accountant, accountant registered or licensed as an accountant under State or municipal law, full-time practicing public accountant, funeral director, or professional engineer; or the performance of such service by a partnership.

\* \* \* \* \*

#### COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 215. For the purposes of this title—

(a) (1) The primary insurance amount of an individual who attained age twenty-two after 1950 and with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage shall be 55 per centum of the first \$100 of his average monthly wage, plus 15 per centum of the next \$200 of such wage; except that, if his average monthly wage is less than \$48, his primary insurance amount shall be the amount appearing in column II of the following table on the line on which in column I appears his average monthly wage.

I	II
Average Monthly Wage	Primary Insurance Amount
\$34 or less-----	\$25
\$35 through \$47-----	\$26

(2) The primary insurance amount of an individual who attained age twenty-two prior to 1951 and with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage shall be whichever of the following is the larger—

(A) the amount computed as provided in paragraph (1) of this subsection; or

(B) the amount determined under subsection (c).

(3) The primary insurance amount of any other individual shall be the amount determined under subsection (c).<sup>23</sup>

(b) (1) An individual's "average monthly wage" shall be the quotient obtained by dividing the total of—

(A) his wages after his starting date (determined under paragraph (2) and prior to his wage closing date (determined under paragraph (3))), and

(B) his self-employment income after such starting date and prior to his self-employment income closing date (determined under paragraph (3))

by the number of months elapsing after such starting date and prior to his divisor closing date (determined under paragraph (3)) excluding from such elapsed months any month in any quarter prior to the quarter in which he attained the age of twenty-two which was not a quarter of coverage, except that when the number of such elapsed months thus computed is less than eighteen, it shall be increased to eighteen.

(2) An individual's "starting date" shall be December 31, 1950, or, if later, the day preceding the quarter in which he attained the age of twenty-two, whichever results in the higher average monthly wage.

(3) (A) Except to the extent provided in paragraph (D), an individual's "wage closing date" shall be the first day of the second quarter preceding the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred.

(B) Except to the extent provided in paragraph (D), an individual's "self-employment income closing date" shall be the day following the quarter in which ends his last taxable year (i) which ended before the month in which he died or became entitled to old-age insurance benefits, whichever first occurred, and (ii) during which he derived self-employment income.

(C) Except to the extent provided in paragraph (D), an individual's "divisor closing date" shall be the later of his wage closing date and his self-employment income closing date.

(D) In the case of an individual who died or became entitled to old-age insurance benefits after the first quarter in which he both was fully insured and had attained retirement age, the determination of

<sup>23</sup> For effective date, see sec. 2 (c) (1) of the 1952 Amendment (p. 162). Prior to the 1952 Amendments the percentage figure "55" appearing in sec. 215 (a) (1) read "50" and the material beginning with the word "except" in such section read as follows:

"except that if his average monthly wage is less than \$50, his primary insurance amount shall be the amount appearing in column II of the following table on the line on which in column I appears his average monthly wage.

I	II
Average Monthly Wage	Primary Insurance Amount
\$30 or less	\$20
\$31	\$21
\$32	\$22
\$33	\$23
\$34	\$24
\$35 to \$49	\$25"

his closing dates shall be made as though he became entitled to old-age insurance benefits in such first quarter, but only if it would result in a higher average monthly wage for such individual.

(4) Notwithstanding the preceding provisions of this subsection, in computing an individual's average monthly wage, there shall not be taken into account any self-employment income of such individual for taxable years ending in or after the month in which he died or became entitled to old-age insurance benefits, whichever first occurred.<sup>29</sup>

#### DETERMINATIONS MADE BY USE OF THE CONVERSION TABLE

(c) (1) The amount referred to in paragraph (3) and clause (B) of paragraph (2) of subsection (a) for an individual shall be the amount appearing in column II of the following table on the line on which in column I appears his primary insurance benefit (determined as provided in subsection (d)); and his average monthly wage shall, for purposes of section 203 (a), be the amount appearing on such line in column III.

I  If the primary insurance benefit (as determined under subsection (d)) is:	II  The primary insurance amount shall be:	III  And the average monthly wage for purpose of computing maximum benefits shall be:
\$10.....	\$25.00	\$45.00
\$11.....	27.00	49.00
\$12.....	29.00	53.00
\$13.....	31.00	56.00
\$14.....	33.00	60.00
\$15.....	35.00	64.00
\$16.....	36.70	67.00
\$17.....	38.20	69.00
\$18.....	39.50	72.00
\$19.....	40.70	74.00
\$20.....	42.00	76.00
\$21.....	43.50	79.00
\$22.....	45.30	82.00
\$23.....	47.50	86.00
\$24.....	50.10	91.00
\$25.....	52.40	95.00
\$26.....	54.40	99.00
\$27.....	56.30	109.00
\$28.....	58.00	120.00
\$29.....	59.40	129.00
\$30.....	60.80	139.00
\$31.....	62.00	147.00
\$32.....	63.30	155.00
\$33.....	64.40	163.00
\$34.....	65.50	170.00
\$35.....	66.60	177.00
\$36.....	67.80	185.00
\$37.....	68.90	193.00
\$38.....	70.00	200.00
\$39.....	71.00	207.00
\$40.....	72.00	213.00
\$41.....	73.10	221.00
\$42.....	74.10	227.00
\$43.....	75.10	234.00
\$44.....	76.10	241.00
\$45.....	77.10	250.00
\$46.....	77.10	250.00

<sup>29</sup> A special wage closing date in certain cases of death or entitlement to old-age insurance benefits in 1952 was provided for by sec. 6 (c) of the 1952 Amendments, see p. 164.



(2) In case the primary insurance benefit of an individual (determined as provided in subsection (d)) falls between the amounts on any two consecutive lines in column I of the table, the amount referred to in paragraphs (2) (B) and (3) of subsection (a) for such individual shall be the amount determined with respect to such benefit (under the applicable regulations in effect on May 1, 1952), increased by 12½ per centum or \$5, whichever is the larger, and further increased, if it is not then a multiple of \$0.10, to the next higher multiple of \$0.10.

(3) For the purpose of facilitating the use of the conversion table in computing any insurance benefit under section 202, the Administrator is authorized to assume that the primary insurance benefit from which such benefit under section 202 is determined is one cent or two cents more or less than its actual amount.

(4) For purposes of section 203 (a), the average monthly wage of an individual whose primary insurance amount is determined under paragraph (2) of this subsection shall be a sum equal to the average monthly wage which would result in such primary insurance amount upon application of the provisions of subsection (a) (1) of this section and without the application of subsection (e) (2) or (g) of this section; except that, if such sum is not a multiple of \$1, it shall be rounded to the nearest multiple of \$1.<sup>30</sup>

(d) \* \* \*

#### CERTAIN WAGES AND SELF-EMPLOYMENT INCOME NOT TO BE COUNTED

(e) For the purposes of subsections (b) and (d) (4)—

(1) in computing an individual's average monthly wage there shall not be counted, in the case of any calendar year after 1950, the excess over \$3,600 of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 212); and

(2) \* \* \*

#### RECOMPUTATION OF BENEFITS

(f) (1) \* \* \*

(2) (A) Upon application by an individual entitled to old-age insurance benefits, the Administrator shall recompute his primary insurance amount if application therefor is filed after the twelfth month for which deductions under paragraph (1) or (2) of section 203 (b) have been imposed (within a period of thirty-six months) with respect to such benefit, not taking into account any month prior to September 1950 or prior to the earliest month for which the last previous computation of his primary insurance amount was effective, and if not less than six of the quarters elapsing after 1950 and prior to the quarter in which he filed such application are quarters of coverage.

(B) Upon application by an individual who, in or before the month of filing of such application, attained the age of 75 and who is entitled to old-age insurance benefits for which the primary insurance amount

<sup>30</sup> For effective date and conditions under which the provisions of pars. (1) and (2) of sec. 215 (a) were inoperative, see sec. 2 (c) (2) of the 1952 Amendments, see p. 162.

was computed under subsection (a) (3) of this section, the Administrator shall recompute his primary insurance amount if not less than six of the quarters elapsing after 1950 and prior to the quarter in which he filed application for such recomputation are quarters of coverage.

(C) A recomputation under subparagraphs (A) and (B) of this paragraph shall be made only as provided in subsection (a) (1) and shall take into account only such wages and self-employment income as would be taken into account under subsection (b) if the month in which application for recomputation is filed were deemed to be the month in which the individual became entitled to old-age insurance benefits. Such recomputation shall be effective for and after the month in which such application for recomputation is filed.

(3) (A) Upon application by an individual entitled to old-age insurance benefits, filed at least six months after the month in which he became so entitled, the Administrator shall recompute his primary insurance amount. Such recomputation shall be made in the manner provided in the preceding subsections of this section for computation of such amount except that his closing dates for purposes of subsection (b) shall be deemed to be the first day of the quarter in which he became entitled to old-age insurance benefits. Such recomputation shall be effective for and after the first month in which he became entitled to old-age insurance benefits.

(B) Upon application by a person entitled to monthly benefits on the basis of the wages and self-employment income of an individual who died after August 1950, the Administrator shall recompute such individual's primary insurance amount if such application is filed at least six months after the month in which such individual died or became entitled to old-age insurance benefits, whichever first occurred. Such recomputation shall be made in the manner provided in the preceding subsections of this section for computation of such amount except that his closing dates for purposes of subsection (b) shall be deemed to be the first day of the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred. Such recomputation shall be effective for and after the month in which such person who filed the application for recomputation became entitled to such monthly benefits. No recomputation under this paragraph shall affect the amount of the lump-sum death payment under subsection (i) of section 202 and no such recomputation shall render erroneous any such payment certified by the Administrator prior to the effective date of the recomputation.

(4) Upon the death after August 1950 of an individual entitled to old-age insurance benefits, if any person is entitled to monthly benefits, or to a lump-sum payment, on the basis of the wages and self-employment income of such individual, the Administrator shall recompute the decedent's primary insurance amount, but (except as provided in paragraph (3) (B)) only if—

(A) the decedent would have been entitled to a recomputation under paragraph (2) if he had filed application therefor in the month in which he died; or

(B) the decedent during his lifetime was paid compensation which is treated, under section 205 (o), as remuneration for employment.

If the recomputation is permitted by subparagraph (A), the recomputation shall be made (if at all) as though he had filed application for a recomputation under paragraph (2) in the month in which he died, except that such recomputation shall include any compensation (described in section 205 (o)) paid to him prior to the divisor closing date which would have been applicable under such paragraph. If recomputation is permitted by subparagraph (B), the recomputation shall take into account only the wages and self-employment income which were taken into account in the last previous computation of this primary insurance amount and the compensation (described in section 205 (o)) paid to him prior to the divisor closing date applicable to such computation. If both of the preceding sentences are applicable to an individual, only the recomputation which results in the larger primary insurance amount shall be made.

\* \* \* \* \*

## VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

### DEFINITIONS

SEC. 218. (b) For the purposes of this section—

(1) The term "State" does not include the District of Columbia.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement.

### SERVICES COVERED

(c) (1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraph (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any services of an emergency nature or all services in any class or classes of elective positions, part-time positions, or positions the compensation for which is on a fee basis.

(4) The Administrator shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State.

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 210 (a) other than paragraph (8) of such section.

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment,

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 210 (1)), and

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of section 210 (a) other than paragraph (8) of such section.

#### EXCLUSION OF POSITIONS COVERED BY RETIREMENT SYSTEMS

(d) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group.

\* \* \* \* \*

#### EFFECTIVE DATE OF AGREEMENT

(f) Any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification, but in no case prior to January 1, 1951, and in no case (other than in the case of an agreement or modification agreed to prior to January 1, 1953) prior to the first day of the calendar year in which such agreement or modification, as the case may be, is agreed to by the Administrator and the State.<sup>31</sup>

\* \* \* \* \*

<sup>31</sup> The year "1953" was changed to "1954" by Public Law 420, 82d Cong., in 1952.

**EXCERPTS FROM THE SOCIAL SECURITY ACT, AS  
AMENDED, PRIOR TO THE 1956 AMENDMENTS****FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND**

**SECTION 201.** (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund" (hereinafter in this title called the "Trust Fund"). The Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Trust Fund, and, in addition, such amounts as may be appropriated to, or deposited in, the Trust Fund as hereinafter provided. There is hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of the Internal Revenue Code of 1939 (and covered into the Treasury) which are deposited into the Treasury by directors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of such code which are deposited into the Treasury by directors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of such code with respect to wages (as defined in section 1426 of such code), and by chapter 21 of the Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of such code) reported to the Commissioner of Internal Revenue pursuant to section 1420 (c) of the Internal Revenue Code of 1939 after December 31, 1950, or pursuant to sections 6011 (a), 6071, 6081 (a), 6091 (a), 6302 (b) of the Internal Revenue Code of 1954 after December 31, 1954, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 1 to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(4) the taxes imposed by subchapter E of chapter 1 of the Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of such code), and by chapter 2 of the Internal Revenue Code of 1954 with respect to self-employment income (as defined in section 1402 of such code) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or chapter, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter to such self-employment income, which self-employment income shall be certified by the Secretary of Health,

Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns. The amounts appropriated by clauses (3) and (4) shall be transferred from time to time from the general fund in the Treasury to the Trust Fund on the basis of estimates by the Secretary of the Treasury of the taxes, referred to in clauses (3) and (4), paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts of the taxes referred to in such clauses.

(b) There is hereby created a body to be known as the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund (hereinafter in this title called the "Board of Trustees") which Board of Trustees shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this title called the "Managing Trustee"). The Commissioner of Social Security shall serve as Secretary of the Board of Trustees. It shall be the duty of the Board of Trustees to—

- (1) Hold the Trust Fund;
- (2) Report to the Congress not later than the first day of March of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the next ensuing five fiscal years;
- (3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that during the ensuing five fiscal years the Trust Fund will exceed three times the highest annual expenditures anticipated during that five-fiscal-year period, and whenever the Board of Trustees is of the opinion that the amount of the Trust Fund is unduly small; and,
- (4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the old-age and survivor's insurance and Federal-State unemployment compensation program.

The report provided for in paragraph (2) above shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Fund during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to

the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Managing Trustee determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(d) Any obligations acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such special obligations may be redeemed at par plus accrued interest.

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) (1) The Managing Trustee is directed to pay from the Trust Fund into the Treasury the amount estimated by him and the Secretary of Health, Education, and Welfare which will be expended during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II and VIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. Such payments shall be covered into the Treasury as repayments to the account for reimbursement of expenses incurred in connection with the administration of titles II and VIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954.

(2) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes which are subject to refund under section 1401 (d) of the Internal Revenue Code of 1939 with respect to wages (as defined in section 1426 of such code) paid after December 31, 1950 and prior to January 1, 1955, and under section 6413 (c) of the Internal Revenue Code of 1954 with respect to wages as defined in section 3121 of such Code, paid after December 31, 1954. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420 (c) of the Internal Revenue Code of 1939 and sections 6011 (a), 6071, 6081 (a), 6091 (a), and 6302 (b) of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(3) Repayments made under paragraph (1) or (2) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under

either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(g) All amounts credited to the Trust Fund shall be available for making payments required under this title.

#### OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

##### CHILD'S INSURANCE BENEFITS

SEC. 202. (d) (1) Every child (as defined in section 216 (e)) of an individual entitled to old-age insurance benefits, or of an individual who died a fully or currently insured individual after 1939, if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and had not attained the age of eighteen, and

(C) was dependent upon such individual at the time such application was filed or, if such individual has died, was dependent upon such individual at the time of such individual's death, shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: such child dies, marries, is adopted (except for adoption by a stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual), or attains the age of eighteen.

\* \* \* \* \*

##### LUMP-SUM DEATH PAYMENTS

(i) Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount, or an amount equal to \$255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Secretary to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured individual, for the month preceding the month in which such individual died. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before April 1956, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands for interment or reinterment, the provisions of the preceding sentence shall not pre-



vent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.<sup>32</sup>

\* \* \* \* \*

#### SIMULTANEOUS ENTITLEMENT TO BENEFITS

(k) (1) \* \* \*

(3) If an individual is entitled to an old-age insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month shall be reduced (after any reduction under section 203 (a)) by an amount equal to such old-age insurance benefit.

\* \* \* \* \*

#### REDUCTION OF INSURANCE BENEFITS

#### DEDUCTIONS ON ACCOUNT OF WORK OR FAILURE TO HAVE CHILD IN CARE

SEC. 203. (b) (3) in which such individual, if a wife under retirement age entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefits; or

\* \* \* \* \*

#### CIRCUMSTANCES UNDER WHICH DEDUCTIONS NOT REQUIRED

(h) Deductions by reason of subsection (b), (f), or (g) shall, notwithstanding the provisions of such subsection, be made from the benefits to which an individual is entitled only to the extent that they reduce the total amount which would otherwise be paid, on the basis of the same wages and self-employment income, to him and the other individuals living in the same household.

\* \* \* \* \*

#### EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Whenever requested by any such individual or whenever requested by a wife, widow, former wife divorced, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his finding of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this

<sup>32</sup> Public Law 325, 84th Cong. (69 Stat. 621), approved August 9, 1955, amended sec. 202 (1) by deleting "July 1955" and substituting therefor "April 1956."

title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

\* \* \* \* \*

#### DEFINITION OF WAGES

SEC. 209. (h) (2) Cash remuneration paid by any employer in any calendar year to an employee for agricultural labor, if the cash remuneration paid in such year by the employer to the employee for such labor is less than \$100;

\* \* \* \* \*

#### DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

(a) \* \* \*

(1) (A) \* \* \*

(B) Service performed by foreign agricultural workers (i) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, or (ii) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies on a temporary basis to perform agricultural labor;

\* \* \* \* \*

#### NET EARNINGS FROM SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

(a) \* \* \*

(7) \* \* \* If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual who reports his income on a cash receipts and disbursements basis, and in which, if it were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 210 (f), (i) if the gross income derived from such trade or business by such individual is not more than \$1,800, the net earnings from self-employment derived by him therefrom may, at his option, be deemed to be 50 per centum of such gross income in lieu of his net earnings from self-employment from such trade or business computed as provided under the preceding provisions of this subsection, or (ii) if the gross income derived from such trade or business by such individual is more than \$1,800 and the net earnings from self-employment derived by him therefrom, as computed under the preceding provisions of this subsection, are less than \$900, such net earnings may instead, at the option of such individual, be deemed to be \$900. For the purpose of the preceding sentence, gross income derived from such trade

or business shall mean the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the preceding provisions of this subsection.

\* \* \* \* \*

#### INSURED STATUS FOR PURPOSES OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS

SEC. 214. For the purposes of this title—

(a) (1) \* \* \*

(3) In the case of any individual who did not die prior to January 1, 1955, the term "fully insured individual" means any individual who meets the requirements of paragraph (2) and, in addition, any individual with respect to whom all of the quarters elapsing after 1954 and prior to (i) July 1, 1956, or (ii) if later, the quarter in which he attained retirement age or died, whichever first occurred, are quarters<sup>33</sup> but only if there are not fewer than six of such quarters so elapsing.

\* \* \* \* \*

#### COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 215. For the purposes of this title— \* \* \*

(b) (1) An individual's "average monthly wage" shall be the quotient obtained by dividing the total of his wages and self-employment income after his starting date (determined under paragraph (2)) and prior to his closing date (determined under paragraph (3)), by the number of months elapsing after such starting date and prior to such closing date, excluding from such elapsed months any month in any year prior to the year in which he attained the age of twenty-two if less than two quarters of such prior year were quarters of coverage, and any month in any quarter any part of which was included in a period of disability (as defined in section 216 (i)) unless such quarter was a quarter of coverage, except that when the number of such elapsed months thus computed (including a computation after the application of paragraph (4)) is less than eighteen, it shall be increased to eighteen.

\* \* \* \* \*

(4) In the case of any individual, the Secretary shall determine the four or fewer full calendar years after his starting date and prior to his closing date which, if the months of such years and his wages and self-employment income for such years were excluded in computing his average monthly wage, would produce the highest primary insurance amount. Such months and such wages and self-employment income shall be excluded for purposes of computing such individual's average monthly wage. The maximum number of calendar years determined under the first sentence of this paragraph shall be five

<sup>33</sup> The words "of coverage" were inadvertently omitted after the word "quarters" from the statute by the printer in Public Law 761, 83d Cong.

instead of four in the case of any individual who has not less than twenty quarters of coverage.

\* \* \* \* \*

#### CERTAIN WAGES AND SELF-EMPLOYMENT INCOME NOT TO BE COUNTED

(e) For the purposes of subsections (b) and (d) (4)—

(1) \* \* \*

(4) in computing an individual's average monthly wage, there shall not be taken into account (A) any wages paid such individual in any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage, or (B) any self-employment income of such individual for any taxable year all of which was included in a period of disability.

\* \* \* \* \*

#### BENEFITS IN CASE OF VETERANS

SEC. 217. (e) (1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this title on the basis of wages and self-employment income of any veteran (as defined in paragraph (4)), and for purposes of section 216 (i) (3), such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to April 1, 1956. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to April 1, 1956, is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this title if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 215 prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 216 (i) (3).

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service

of such veteran on or after July 25, 1947, and prior to April 1, 1956, a benefit described in clause (B) of paragraph (1) has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to April 1, 1956, shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to April 1, 1956, and who, if discharged, or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.<sup>34</sup>

## VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

### FAILURE TO MAKE PAYMENTS

SEC. 218. (j) In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this Act. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this Act. Amounts equal to the amounts deducted under this subsection are hereby appropriated to the Trust Fund.

\* \* \* \* \*

<sup>34</sup> Public Law 825, 84th Cong. (69 Stat. 621), approved August 9, 1955, amended sec. 217 (e) by extending the period during which gratuitous wage credits are granted from July 1, 1953 to April 1, 1956.

## DISABILITY DETERMINATIONS

SEC. 221. (e) Each State which has an agreement with the Secretary under this section shall be entitled to receive from the Trust Fund, in advance or by way of reimbursement, as may be mutually agreed upon, the cost to the State of carrying out the agreement under this section. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Fund at the time or times fixed by the Secretary, in accordance with such certification.

(f) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Fund.

\* \* \* \* \*

## REFERRAL FOR REHABILITATION SERVICES

SEC. 222. It is hereby declared to be the policy of the Congress in enacting the preceding section that disabled individuals applying for a determination of disability shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of disabled individuals may be restored to productive activity.

## EXCERPTS FROM THE SOCIAL SECURITY ACT, AS AMENDED, PRIOR TO THE 1957 AMENDMENTS

SEC. 211. (a) (7) An individual who is—

(A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order; and

(B) a citizen of the United States performing service described in subsection (c) (4) as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States.<sup>35</sup>

shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possession of the United States) of the Internal Revenue Code of 1954.

\* \* \* \* \*

<sup>35</sup> Sec. 104 (h) of the 1956 Amendments amended subpar. (B) by adding "or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States." The amendment is applicable with respect to the same taxable year to which the amendment of sec. 1402 (a) of the Internal Revenue Code of 1954 made by sec. 201 (g) of the 1956 Amendments (see sec. 201 (m) (2) on p. 185) applies.

## DETERMINATION OF FAMILY STATUS

SEC. 216. (h) (1) In determining whether an applicant is the wife, husband, widow, widower, child, or parent of a fully insured or currently insured individual for purposes of this title, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a wife, husband, widow, widower, child, or parent shall be deemed such.

(2) A wife shall be deemed to be living with her husband if they are both members of the same household, or she is receiving regular contributions from him toward her support, or he has been ordered by any court to contribute to her support; and a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support.

(3) A husband shall be deemed to be living with his wife if they are both members of the same household, or he is receiving regular contributions from her toward his support, or she has been ordered by any court to contribute to his support; and a widower shall be deemed to have been living with his wife at the time of her death if they were both members of the same household on the date of her death, or he was receiving regular contributions from her toward his support on such date, or she had been ordered by any court to contribute to his support.

## EXCERPTS FROM THE SOCIAL SECURITY ACT, AS AMENDED, PRIOR TO THE 1958 AMENDMENTS

## PAYMENT TO STATES

SEC. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing October 1, 1956,<sup>36</sup> (1) in the case of any State other than Puerto Rico and the Virgin Islands, an amount<sup>37</sup> equal to the sum of the following proportions of the total amounts expended during such

<sup>36</sup> In the 1956 Amendments, under Part V, sec. 341 made certain changes in the Federal matching formula and sec. 345 stated that these changes "shall be effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted." See also footnote 39.

<sup>37</sup> Sec. 311 (c) (1) of the 1956 Amendments deleted the words "which shall be used exclusively as old-age assistance," that followed the word "amount" in sec. 3 (a) (1) and sec. 3 (a) (2), effective August 1, 1956. However, these words were retained in sec. 3 (a) (2) by sec. 341 of the 1956 Amendments pertaining to Federal matching for the period October 1, 1956, through June 30, 1959.

quarter as old-age assistance in the form of money payments<sup>38</sup> under the State plan, not counting so much of such expenditure with respect to any individual for any month as exceeds \$60<sup>39</sup>—

(A) four-fifths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$30<sup>40</sup> multiplied by the total number of such individuals who received old-age assistance in the form of money payments<sup>41</sup> for such month; plus

(B) one-half of the amount by which such expenditures exceeded the maximum which may be counted under clause (A); and (2) in the case of Puerto Rico and the Virgin Islands, an amount,<sup>42</sup> which shall be used exclusively as old-age assistance, equal to one-half of the total of the sums expended during such quarter as old-age assistance in the form of money payments<sup>43</sup> under the State plan, not counting so much of such expenditure with respect to any individual for any month as exceeds \$30, and (3) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan,<sup>44</sup> including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care, and (4) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care (including expenditures for insurance premiums for such care or the cost thereof), not counting so much of such expenditure for any month as exceeds the product of \$6 multiplied by the total number of individuals who received old-age assistance under the State plan for such month.<sup>45</sup>

\* \* \* \* \*

#### HUSBAND'S INSURANCE BENEFITS

SEC. 202. (c) (1) (C) \* \* \* was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time she became entitled to

<sup>38</sup> Sec. 301 (a) of the 1956 Amendments inserted the words "in the form of money payments," effective July 1, 1957.

<sup>39</sup> Sec. 341 of the 1956 Amendments substituted "\$60" and "\$30" for "\$55" and "\$25" respectively in sec. 3 (a) (1) effective October 1, 1956. See also footnote 36.

This subsection had previously been amended in 1946, in 1948, and again in 1952 when amendments were enacted for a two-year period that was extended by the 1954 Amendments for an additional two years ending September 30, 1956. Prior to the 1946 changes, States were entitled to one-half of their old-age assistance expenditures up to a maximum Federal payment of \$20 for each case.

<sup>40</sup> See footnote 39.

<sup>41</sup> Sec. 301 of the 1956 Amendments inserted the words "in the form of money payments," effective July 1, 1957.

<sup>42</sup> See footnote 37.

<sup>43</sup> See footnote 38.

<sup>44</sup> Sec. 311 (c) (2) of the 1956 Amendments substituted the words following "State plan" through the end of clause (3) in place of "which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose," effective August 1, 1956.

<sup>45</sup> Clause (4) was added by sec. 301 (c) of the 1956 Amendments, effective July 1, 1957. Pursuant to sec. 9 of the Act of April 19, 1950 (64 Stat. 44, 47), the Secretary of the Treasury must also pay to States, in addition to the amounts provided by sec. 3 (a) of the Social Security Act, an amount equal to 80 percent of the State share of expenditures under the State plan with respect to Navajo and Hopi Indians.

See also sec. 1108 (p. 145) for a limitation on the amounts which may be certified for payment to Puerto Rico and the Virgin Islands for any fiscal year.



old-age insurance benefits and filed proof of such support within two years after the month in which she became so entitled,<sup>46, 47</sup>

\* \* \* \* \*

#### CHILD'S INSURANCE BENEFITS

(d) (1) Every child (as defined in section 216 (e)) of an individual entitled to old-age insurance benefits, or of an individual who died a fully or currently insured individual after 1939, if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and either (i) had not attained the age of eighteen, or (ii) was under a disability (as defined in section 223 (c)) which began before he attained the age of eighteen, and<sup>48</sup>

(C) was dependent upon such individual at the time such application was filed, or, if such individual has died, was dependent upon such individual at the time of such individual's death, shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: such child dies, marries, is adopted (except for adoption by a stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual), attains the age of eighteen and is not under a disability (as defined in section 223 (c)) which began before he attained such age, or ceases to be under a disability (as so defined) on or after the day on which he attains age eighteen.<sup>49</sup>

\* \* \* \* \*

(d) (6) A child who has attained the age of eighteen and who is under a disability (as defined in section 223 (c)) which began before he attained the age of eighteen shall be deemed dependent upon his natural or adopting father, his natural or adopting mother, his stepfather, or his stepmother at the time specified in paragraph (1) (C) if the child—

(A) was or would, upon filing an application therefor, have been entitled to a child's insurance benefit on the basis of the wages and self-employment income of such father, mother, stepfather, or stepmother for any month before the month in which he attained the age of eighteen, or

(B) was, at the time specified in paragraph (1) (C), receiving at least one-half of his support from such father, mother, stepfather, or stepmother.<sup>50</sup>

\* \* \* \* \*

<sup>46</sup> For special provisions of the 1954 Amendments as to proof of support under this subsec., see sec. 113, p. 174. See also sec. 202 (p) of the Act, p. 27.

<sup>47</sup> Sec. 3 (b) of P. L. 85-238 deleted former subpar. (C) and redesignated former subpar. (D) as (C) effective with respect to monthly benefits for months after August 1957. Former subpar. (C) read as follows: "was living with such individual at the time such application was filed."

<sup>48</sup> Sec. 101 (a) of the 1956 Amendments added clause (ii) effective with respect to monthly benefits after December 1956.

<sup>49</sup> Sec. 101 (a) of the 1956 Amendments substituted all of the material following the parenthetical reference to adoption for "or attains the age of eighteen," effective with respect to monthly benefits for months after December 1956.

<sup>50</sup> Par. (6) was added by sec. 101 (b) of the 1956 Amendments and applies with respect to monthly benefits payable for months after December 1956.

## WIDOWER'S INSURANCE BENEFITS

(f) (1) \* \* \*

(D) (i) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time of her death and filed proof of such support within two years of such date of death, or (ii) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual, and she was a currently insured individual, at the time she became entitled to old-age insurance benefits and filed proof of such support within two years after the month in which she became so entitled, and <sup>51, 52</sup>

\* \* \* \* \*

## MOTHER'S INSURANCE BENEFITS

(g) (3) In the case of any widow or former wife divorced of an individual—

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not his widow as defined in section 216 (c),

the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) the month following the month in which this paragraph is enacted.<sup>53</sup>

## PARENT'S INSURANCE BENEFITS

(h) (1) Every parent (as defined in this subsection) of an individual who died a fully insured individual after 1939, if such individual did not leave a widow who meets the conditions in subsection (e) (1) (D),<sup>54</sup> a widower who meets the conditions in subsection (f) (1) (D) and (E),<sup>55</sup> an unmarried child under the age of eighteen deemed dependent on such individual under subsection (d) (3), (4), or (5), or an unmarried child who has attained the age of eighteen and is under a disability (as defined in section 223 (c))

<sup>51</sup> For special provisions of the 1954 Amendments as to proof of support under this subsection, see sec. 113 of those Amendments, p. 174. See also sec. 202 (p) of the Act, p. 27.

<sup>52</sup> Sec. 3 (d) of P. L. 85-238 deleted former subpar. (D) and redesignated former subpar. (E) as (D) effective with respect to monthly benefits under sec. 202 for months after August 1957. Former subpar. (D) read: "was living with such individual at the time of her death."

<sup>53</sup> Sec. (1) of P. L. 85-798 enacted on August 28, 1958, added a new par. (3) to sec. 202 (g). However, this was repealed by sec. 303 (a) of P. L. 85-840 which also added a new par. (3) to sec. 202 (g) effective with respect to monthly benefits for months after August 1958.

<sup>54</sup> Sec. 3 (f) of P. L. 85-238 changed "(e) (1) (D) and (E)" to "(e) (1) (D)" effective with respect to monthly benefits under sec. 202 for months after August 1957. However, see sec. 3 (i) (2) of P. L. 85-238 on p. 187, for limitations on the application of this provision.

<sup>55</sup> Sec. 3 (f) of P. L. 85-238 changed "(f) (1) (D) (e) and (F)" to "(f) (1) (D) and (E)." See footnote 54 for effective date and limitations on application of this provision.

which began before he attained such age and who is deemed dependent on such individual under subsection (d) (6),<sup>66</sup> and if such parent—

\* \* \* \* \*

## REDUCTION OF INSURANCE BENEFITS

### MAXIMUM BENEFITS

SEC. 203. (a) Whenever the total of monthly benefits to which individuals are entitled under section 202 for a month on the basis of the wages and self-employment income of an insured individual is more than \$50 and exceeds (1) 80 per centum of his average monthly wage, or (2) one and one-half times his primary insurance amount, whichever is the greater, such total of benefits shall, after any deductions under this section, after any deductions under section 222 (b), and after any reduction under section 224, be reduced to 80 per centum of his average monthly wage or to one and one-half times his primary insurance amount, whichever is the greater, but in no case to less than \$50; except that when any of such individuals so entitled would (but for the provisions of section 202 (k) (2) (A)) be entitled to child's insurance benefits on the basis of the wages and self-employment income of one or more other insured individuals, such total of benefits, after any deductions under this section, after any deductions under section 222 (b), and after any reduction under section 224, shall not be reduced to less than 80 per centum of the sum of the average monthly wages of all such insured individuals. In any case in which the total of the benefits referred to in the preceding sentence, after reduction (if any) thereunder, is more than \$200, such total shall, notwithstanding the provisions of such sentence, be reduced to \$200. Whenever a reduction is made under this subsection, each benefit, except the old-age insurance benefit, shall be proportionately decreased.<sup>67</sup>

\* \* \* \* \*

## PENALTIES

SEC. 208. Whoever, for the purpose of causing an increase in any payment authorized to be made under this title, or for the purpose of causing any payment to be made where no payment is authorized under this title, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1 or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2, or 21, or subtitle F of the Internal Revenue Code of 1954) as to the amount of any wages paid or received or the period during which earned or paid, or as to the amount of net earnings from self-employment derived or the period during which derived or whoever makes or causes to be made any false statement of a material fact in any application for any payment under this title, or whoever

<sup>66</sup> Sec. 101 (c) of the 1953 Amendments added the material following "(5)" through "subsection (d) (6)," applicable in the case of benefits under sec. 202 (h) based on wages and self-employment income of an individual who dies after August 1950.

<sup>67</sup> Subsec. 203 (a) was added by the 1954 Amendments and applies in the case of lump-sum death payments under sec. 202 of the Act with respect to deaths occurring after, and in the case of monthly benefits under such section for months after August 1954. For special provisions affecting benefit reductions in certain cases, see sec. 102 (h) of the 1954 Amendments; p. 172.

makes or causes to be made any false statement, representation, affidavit, or document in connection with such an application, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

#### DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

(a) The term employment means \* \* \*

(1) (A) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended:<sup>58</sup>

\* \* \* \* \*

SEC. 215. For the purposes of this title—

(a) (1) The primary insurance amount of any individual (i) who does not become eligible for benefits under section 202 (a) until after August 1954, or who dies after such month and without becoming eligible for benefits under such section 202 (a), and (ii) with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage, and the primary insurance amount of any individual with respect to whom not less than six of the quarters elapsing after June 30, 1953, are quarters of coverage, shall be whichever of the following amounts is the larger:

(A) Fifty-five per centum of the first \$110 of his average monthly wage, plus 20 per centum of the next \$240; or

(B) The amount determined under subsection (c).

An individual shall, for purposes of this paragraph, be deemed eligible for benefits under section 202 (a) for any month if he was or would have been, upon filing application therefor in such month, entitled to such benefits for such month.

(2) The primary insurance amount of any other individual shall be the amount determined under subsection (c).

(3) Notwithstanding paragraphs (1) and (2), in the case of any individual who in the month before the month in which he becomes entitled to old-age insurance benefits or dies, whichever first occurs, was entitled to a disability insurance benefit, his primary insurance amount shall be the amount computed as provided in this section (without regard to this paragraph) or his disability insurance benefit for such earlier month, whichever is the larger.<sup>59</sup>

\* \* \* \* \*

(c) (1) Except as provided in paragraph (2) of this subsection, the amount referred to in paragraphs (1) (B) and (2) of subsection (a) for an individual shall be either the amount appearing in column III of the following table on the line on which in column I appears his primary insurance benefit (as determined under subsection (d)), or the amount appearing in column III of the following table on the line on which in column II appears his primary insurance amount (determined as provided in subsection (d)), whichever produces the

<sup>58</sup> Sec. 15 (g) of the Agricultural Marketing Act defines "agricultural commodity" to include "in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of crude gum (oleoresin) from which derived: gum, spirits of turpentine, and gum resin. \* \* \*"

<sup>59</sup> Sec. 103 (c) (4) of the 1956 Amendments added par. (3).

higher amount; and his average monthly wage shall, for purposes of section 203 (a), be the amount appearing in column IV on the line on which, in column III, appears such higher amount.

I  If the primary insurance benefit (as determined under subsection (d) is—	II  Or the primary insurance amount (as determined under subsection (d)) is—	III  The amount referred to in paragraphs (1) (B) and (2) of subsection (a) shall be—	IV  And the average monthly wage for purposes of computing maximum benefits shall be—
\$10-----	\$25.00	\$30.00	\$55.00
\$11-----	27.00	32.00	58.00
\$12-----	29.00	34.00	62.00
\$13-----	31.00	36.00	65.00
\$14-----	33.00	38.00	69.00
\$15-----	35.00	40.00	73.00
\$16-----	36.70	41.70	76.00
\$17-----	38.20	43.20	79.00
\$18-----	39.50	44.50	81.00
\$19-----	40.70	45.70	83.00
\$20-----	42.00	47.00	85.00
\$21-----	43.50	48.50	88.00
\$22-----	45.30	50.30	91.00
\$23-----	47.50	52.50	95.00
\$24-----	50.10	55.10	100.00
\$25-----	52.40	57.40	104.00
\$26-----	54.40	59.40	108.00
\$27-----	56.30	61.30	114.00
\$28-----	58.00	63.00	123.00
\$29-----	59.40	64.40	130.00
\$30-----	60.80	66.30	139.00
\$31-----	62.00	67.90	147.00
\$32-----	63.30	69.50	155.00
\$33-----	64.40	71.10	163.00
\$34-----	65.50	72.50	170.00
\$35-----	66.60	73.90	177.00
\$36-----	67.80	75.50	185.00
\$37-----	68.90	77.10	193.00
\$38-----	70.00	78.50	200.00
\$39-----	71.00	79.90	207.00
\$40-----	72.00	81.10	213.00
\$41-----	73.10	82.70	221.00
\$42-----	74.10	83.90	227.00
\$43-----	75.10	85.30	234.00
\$44-----	76.10	86.70	241.00
\$45-----	77.10	88.50	250.00
\$46-----	77.10	88.50	250.00
	77.20	88.50	250.00
	77.30	88.50	250.00
	77.40	88.50	250.00
	77.50	88.50	250.00
	78.00	89.10	253.00
	79.00	90.50	260.00
	80.10	91.90	267.00
	81.00	93.10	273.00
	82.00	94.50	280.00
	83.10	95.90	287.00
	84.00	97.10	293.00
	85.00	98.50	300.00

(2) (A) In case the primary insurance benefit (determined as provided in subsection (d)) of an individual falls between the amounts on any two consecutive lines in column I of the table, the amount referred to in paragraphs (1) (b) and (2) of subsection (a) for such individual shall be the amount determined (i) by applying the formula in subsection (a) (1) to the average monthly wage which would be determined for such individual under paragraph (4) of this subsection as in effect prior to the enactment of the Social Security Amendments of 1954, (ii) by increasing the amount determined under clause (i), if it is not a multiple of \$0.10, to the next higher multiple of \$0.10, and (iii) by further increasing such amount to the extent, if any, it is less than \$5 greater than the primary insurance amount

which would be determined for him by use of his primary insurance benefit under paragraph (2) of this subsection as in effect prior to the enactment of the Social Security Amendments of 1954.

(b) <sup>60</sup> In case the primary insurance amount (determined under subsection (d)) of an individual falls between the amounts on any two consecutive lines in column II of the table, the amount referred to in paragraphs (1) (B) and (2) of subsection (a) for such individual shall be the amount determined under subparagraph (A) of this paragraph for an individual whose primary insurance benefit would (under paragraph (2) of this subsection as in effect prior to the enactment of the Social Security Amendments of 1954) produce such primary insurance amount; except that, if there is no primary insurance benefit which would (under such paragraph (2)) produce such primary insurance amount or if such primary insurance amount is higher than \$77.10, the amount referred to in paragraphs (1) (B) and (2) of subsection (a) for such individual shall be the amount determined (i) by applying the formula in subsection (a) (1) to the average monthly wage from which such primary insurance amount was determined, (ii) by increasing the amount determined under clause (i), if it is not a multiple of \$0.10, to the next higher multiple of \$0.10, and (iii) by further increasing such amount to the extent, if any, it is less than \$5 greater than such primary insurance amount.

(C) If the provisions of subparagraphs (A) and (B) of this paragraph are both applicable to an individual, the amount referred to in paragraphs (1) (B) and (2) of subsection (a) for such individual shall be the larger of the amounts determined under such subparagraphs.

(3) For the purpose of facilitating the use of the conversion table in computing any insurance benefit under section 202, the Secretary is authorized to assume that the primary insurance benefit from which such benefit under section 202 is determined is one cent or two cents more or less than its actual amount.

(4) For purposes of section 203 (a), the average monthly wage of an individual whose primary insurance amount is determined under paragraph (2) of this subsection shall be a sum equal to the average monthly wage which would result in such primary insurance amount upon the application of the provisions of subsection (a) (1) (A) of this section and without the application of subsection (e) (2) or (g) of this section; except that, if such sum is not a multiple of \$1, it shall be rounded to the nearest multiple of \$1 (or to the next higher multiple of \$1 if it is a multiple of \$0.50).

\* \* \* \* \*

#### PRIMARY INSURANCE BENEFIT AND PRIMARY INSURANCE AMOUNT FOR PURPOSES OF CONVERSION TABLE

(d) For the purposes of subsection (c), the primary insurance benefits and the primary insurance amounts of individuals shall be determined as follows:

(1) In the case of any individual who was entitled to a primary insurance benefit for August 1950, his primary insurance benefit

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<sup>60</sup> "(b)" appeared in law through error. It should have been "(B)."

shall, except as provided in paragraph (2), be the primary insurance benefit to which he was so entitled.

(2) In the case of any individual to whom paragraph (1) is applicable and who is a World War II veteran or in August 1950 rendered services for wages of \$15 or more, his primary insurance benefit shall be whichever of the following is larger: (A) the primary insurance benefit to which he was entitled for August 1950, or (B) his primary insurance benefit for August 1950 recomputed, under section 209 (q) of the Social Security Act as in effect prior to the enactment of this section, in the same manner as if such individual had filed application for and was entitled to a recomputation for August 1950, except that in making such recomputation section 217 (a) shall be applicable if such individual is a World War II veteran.

(3) In the case of any individual who died prior to September 1950, his primary insurance benefit shall be determined as provided in this title as in effect prior to the enactment of this section, except that section 217 (a) shall be applicable, in lieu of section 210 of this Act as in effect prior to the enactment of this section, but only if it results in a larger primary insurance benefit.

(4) In the case of any other individual (except an individual who attained age twenty-two after 1950 and with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage), his primary insurance benefit shall be computed as provided in this title as in effect prior to the enactment of this section, except that—

(A) In the computation of such benefit, such individual's average monthly wage shall (in lieu of being determined under section 209 (f) of such title as in effect prior to the enactment of this section) be determined as provided in subsection (b) of this section, except that his starting date shall be December 31, 1936.

(B) For purposes of such computation, the date he became entitled to old-age insurance benefits shall be deemed to be the date he became entitled to primary insurance benefits.

(C) The 1 per centum addition provided for in section 209 (e) (2) of this Act as in effect prior to the enactment of this section shall be applicable only with respect to calendar years prior to 1951.

(D) The provisions of subsection (e) shall be applicable to such computation.

(5) In the case of any individual to whom paragraph (1), (2), or (4) of this subsection is applicable, his primary insurance benefit shall be computed as provided therein except that, for purposes of paragraphs (1) and (2) and subparagraph (C) of paragraph (4), all quarters, in any year prior to 1951 any part of which was included in a period of disability, shall be excluded from the elapsed quarters and any wages paid in such year shall not be counted. Notwithstanding the preceding sentence, the quarters in the year in which a period of disability began shall not be excluded from the elapsed quarters and the wages paid in such year shall be counted if the inclusion of such quarters and

the counting of such wages result in a higher primary insurance amount.<sup>61</sup>

(6) The primary insurance amount of any individual shall be computed as provided in this section as in effect prior to the enactment of this paragraph, except that the amendments made by sections 102 (b) (other than paragraph (2) thereof), 104, and 106 of the Social Security Amendments of 1954<sup>62</sup> relating, respectively, to increase in benefit amounts, increase in earnings counted, and periods of disability) shall, to the extent provided by such sections, be applicable to such computation.

\* \* \* \* \*

#### OTHER DEFINITIONS

SEC. 216. For the purposes of this title— \* \* \*

#### CHILD

(e) The term "child" means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for not less than three years immediately preceding the day on which application for child's benefits is filed, and (3) in the case of a deceased individual, (A) an adopted child, or (B) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which such individual died. In determining whether an adopted child has met the length of time requirements in clause (2), time spent in the relationship of stepchild shall be counted as time spent in the relationship of adopted child.

\* \* \* \* \*

#### DETERMINATION OF FAMILY STATUS

(h) (3) For purposes of section 202 (i), a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support; a widower shall be deemed to have been living with his wife at the time of her death if they were both members of the same household at the time of her death, or he was receiving regular contributions from her toward his support on such date, or she had been ordered by any court to contribute to his support.<sup>63</sup>

\* \* \* \* \*

#### DISABILITY; PERIOD OF DISABILITY

(i) (3) The requirements referred to in clauses (A) and (B) of paragraphs (2) and (4) are satisfied by an individual with respect to any quarter only if he had not less than—

<sup>61</sup> Sec. 115 (b) of the 1956 Amendments amended par. (5) by substituting all the material after the comma in the fourth line of that paragraph for the following: "any quarter prior to 1951 any part of which was included in a period of disability shall be excluded from the elapsed quarters unless it was a quarter of coverage, and any wages paid in any such quarter shall not be counted," effective after August 1 1956, subject to the limitations and conditions in sec. 115 (d) of the 1956 Amendments, see p. 183.

<sup>62</sup> See pp. 168-173.

<sup>63</sup> This par. was amended by sec. 3 (h) of P. L. 85-238.



(A) six quarters of coverage (as defined in section 213 (a) (2)) during the thirteen-quarter period which ends with such quarter; and

(B) twenty quarters of coverage during the forty-quarter period which ends with such quarter, not counting as part of the thirteen-quarter period specified in clause (A), or the forty-quarter period specified in clause (B), any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage.

\* \* \* \* \*

#### VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 218. (d) (6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers' colleges. For the purposes of this subsection, any retirement system established by the State of California, Connecticut,<sup>64</sup> Florida, Georgia, Massachusetts,<sup>65</sup> Minnesota,<sup>66</sup> New York, North Dakota, Pennsylvania, Rhode Island,<sup>67</sup> Tennessee, Vermont,<sup>68</sup> Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this sentence, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such

<sup>64</sup> Sec. 1 of P. L. 85-227 added California, Connecticut, Minnesota, and Rhode Island, effective August 30, 1957. See sec. 2 of P. L. 85-227 on p. 187 for retroactivity of modification of agreements with these States.

<sup>65</sup> Sec. 1 of P. L. 85-787 added Massachusetts and Vermont, effective August 27, 1958.

<sup>66</sup> See footnote 64.

<sup>67</sup> See footnote 64.

<sup>68</sup> See footnote 65.

sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title.<sup>69</sup> In the case of any retirement system divided pursuant to the fourth sentence of this paragraph, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1960 or, if later, the expiration of one year after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer.<sup>70</sup> For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the position of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A).<sup>71, 72</sup>

#### REDUCTION OF BENEFITS BASED ON DISABILITY

##### SEC. 224. (a) If—

(1) any individual is entitled to a disability insurance benefit for any month, or to a child's insurance benefit for the month in which he attained the age of eighteen or any subsequent month, and

(2) either (A) it is determined by any agency of the United States under any other law of the United States or under a system established by such agency that a periodic benefit is payable by such agency for such month to such individual, and the amount of or eligibility for such periodic benefit is based (in whole or in part) on a physical or mental impairment of such individual, or (B) it is determined that a periodic benefit is payable for such month to such individual under a workmen's compensation law or plan of the United States or of a State on account of a physical or mental impairment of such individual,

<sup>69</sup> Sec. 104 (e) of the 1956 Amendments added the fourth and fifth sentences to par. (6).

<sup>70</sup> Sec. 2 of P. L. 85-787 added this sentence, effective August 27, 1958.

<sup>71</sup> Sec. 104 (e) of the 1956 Amendments added the last sentence to par. (6).

<sup>72</sup> For special provisions relating to the coverage of certain nonprofessional school district employees in Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, and the Territory of Hawaii, see sec. 104 (f) of the 1956 Amendments, p. 180.

then the benefit referred to in paragraph (1) shall be reduced (but not below zero) by an amount equal to such periodic benefit or benefits for such month. If such benefit referred to in paragraph (1) for any month is a child's insurance benefit and the periodic benefit or benefits referred to in paragraph (2) exceed such child's insurance benefit, the monthly benefit for such month to which an individual is entitled under subsection (b) or (g) of section 202 shall also be reduced (but not below zero) by the amount of such excess, but only if such individual (i) did not attain retirement age in such month or in any prior month, and (ii) would not be entitled to such monthly benefit if she did not have such child in her care (individually or jointly with her husband, in the case of a wife).

(b) If any periodic benefit referred to in subsection (a) (2) is determined to be payable on other than a monthly basis (excluding a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments), reduction of the benefits under this section shall be made at such time or times and in such amounts as the Secretary finds will approximate, as nearly as practicable, the reduction prescribed in subsection (a).

(c) In order to assure that the purposes of this section will be carried out, the Secretary may, as a condition to certification for payment of any monthly insurance benefit payable to an individual under this title (if it appears to him that such individual may be eligible for a periodic benefit which would give rise to a reduction under this section), require adequate assurance of reimbursement to the Federal Disability Insurance Trust Fund in case periodic benefits, with respect to which such a reduction should be made, become payable to such individual and such reduction is not made.

(d) Any agency of the United States which is authorized by any law of the United States to pay periodic benefits, or has a system of periodic benefits, which are based in whole or in part on physical or mental impairment, shall (at the request of the Secretary) certify to him, with respect to any individual, such information as the Secretary deems necessary to carry out his functions under subsection (a).

(e) For purposes of this section, the term "agency of the United States" means any department or other agency of the United States or any instrumentality which is wholly owned by the United States.<sup>73</sup> For the purposes of this section, the term "periodic benefit" does not include compensation paid to any individual under laws administered by the Veterans' Administration on account of such individual's service-connected disability.<sup>74</sup>

\* \* \* \* \*

#### PAYMENT TO STATES

SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing October 1, 1956,<sup>75</sup> (1) in the case of any State

<sup>73</sup> Sec. 224 was added by sec. 103 (a) of the 1956 Amendments and is applicable with respect to monthly benefits after June 1957.

<sup>74</sup> Sec. 2 (a) of P. L. 85-109 added the last sentence to sec. 224 (e) effective with respect to monthly benefits for months after June 1957.

<sup>75</sup> In the 1956 Amendments, under Part V, sec. 342 made certain changes in the Federal matching formula and sec. 345 stated that these changes "shall be effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted." See also footnote 78.

other than Puerto Rico and the Virgin Islands, an amount<sup>76</sup> equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children in the form of money payments<sup>77</sup> under the State plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds \$32,<sup>78</sup> or if there is more than one dependent child in the same home, as exceeds \$32 with respect to one such dependent child and \$23<sup>79</sup> with respect to each of the other dependent children, and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds \$32—

(A) fourteen-seventenths<sup>80</sup> of such expenditures, not counting so much of the expenditures with respect to any month as exceeds the product of \$17<sup>81</sup> multiplied by the total number of dependent children and other individuals with respect to whom aid to dependent children in the form of money payments<sup>82</sup> is paid for such month; plus

(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) in the case of Puerto Rico and the Virgin Islands, an amount<sup>83</sup> equal to one-half of the total of the sums expended during such quarter as aid to dependent children in the form of money payments<sup>84</sup> under the State plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds \$18, or if there is more than one dependent child in the same home, as exceeds \$18 with respect to one such dependent child and \$12 with respect to each of the other dependent children, and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds \$18;<sup>85</sup> and (3) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to relatives with whom such children (applying for or receiving such aid) are living, in order to help such relatives attain self-support or self-care, or which are provided to maintain

<sup>76</sup> Sec. 312 (c) (1) of the 1956 Amendments deleted the words "which shall be used exclusively as aid to dependent children," that followed the word "amount" in sec. 403 (a) (1) and sec. 403 (a) (2), effective August 1, 1956.

<sup>77</sup> Sec. 302 (a) of the 1956 Amendments inserted the words "in the form of money payments" effective July 1, 1957.

<sup>78</sup> Sec. 342 of the 1956 Amendments substituted "\$32," "\$23," "fourteen-seventenths," and "\$17" for "\$30," "\$21," "four-fifths," and "\$15" respectively in sec. 403 (a) (1) effective October 1, 1956. See also footnote 75.

This subsection had previously been amended in 1946, in 1948, and again in 1952 when amendments were enacted for a two-year period that was extended by the 1954 Amendments for an additional two years ending September 30, 1956. Prior to the 1946 changes, States were entitled to one-half of their aid to dependent children expenditures up to a maximum Federal payment of \$9 for the first child in the home and \$6 for each of the other children in the home.

<sup>79</sup> See footnote 78.

<sup>80</sup> See footnote 78.

<sup>81</sup> See footnote 78.

<sup>82</sup> Sec. 302 (b) of the 1956 Amendments inserted the words "in the form of many payments" effective July 1, 1957.

<sup>83</sup> See footnote 76.

<sup>84</sup> See footnote 77.

<sup>85</sup> Sec. 351 (a) of the 1956 Amendments added the words "and not counting so much of such expenditures for any month with respect to a relative whom any dependent child is living as exceeds \$18," effective with respect to the fiscal year ending June 30, 1957, and all succeeding years.

and strengthen family life for such children;<sup>86</sup> and (4) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as aid to dependent children under the State plan in the form of medical or any other type of remedial care (including expenditures for insurance premiums for such care or the cost thereof), not counting so much of such expenditure for any month as exceeds (A) the product of \$3 multiplied by the total number of dependent children who received aid to dependent children under the State plan for such month plus (B) the product of \$6 multiplied by the total number of other individuals who received aid to dependent children under the State plan for such month.<sup>87</sup>

\* \* \* \* \*

### PART 3—CHILD-WELFARE SERVICES

SEC. 521. (a) For the purpose of enabling the United States, through the Secretary of Health, Education, and Welfare, to cooperate with State public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, public-welfare services (hereinafter in this section referred to as "child-welfare services") for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1958, the sum of \$12,000,000.<sup>88</sup> Such amount shall be allotted by the Secretary for use by cooperating State public-welfare agencies on the basis of plans developed jointly by the State agency and the Secretary, to each State, \$40,000, and the remainder to each State on the basis of such plans, not to exceed such part of the remainder as the rural population of such State under the age of eighteen bears to the total rural population of the United States under such age. The amount so allotted shall be expended for payment of part of the cost of district, county, or other local child-welfare services in areas predominantly rural, for developing State services for the encouragement and assistance of adequate methods of community child-welfare organization in areas predominantly rural and other areas of special need, and for paying the cost of returning any runaway child who has not attained the age of sixteen to his own community in another State in cases in which such return is in the interest of the child and the cost thereof cannot otherwise be met: *Provided*, That in developing such services for children the facilities and experience of voluntary agencies shall be utilized in accordance with child care programs and arrangements in the States and local communities as may be authorized by the State. The amount of any

<sup>86</sup> Sec. 312 (c) (2) of the 1956 Amendments substituted the words following "State plan" through the end of clause (3), in place of "which amount shall be used for paying the costs of administering the State plan or for aid to dependent children or both, and for no other purpose," effective August 1, 1956.

<sup>87</sup> Clause (4) was added by sec. 302 (c) of the 1954 Amendments effective July 1, 1957. Pursuant to sec. 9 of the Act of April 19, 1950 (64 Stat. 44, 47), the Secretary of the Treasury must also pay to the States, in addition to the amounts provided by sec. 403 (a) of the Social Security Act, an amount equal to 80 percent of the State share of expenditures under the State plan with respect to Navajo and Hopi Indians.

See sec. 1108 (p. 143) for limitation on amounts certifiable for payment to Puerto Rico and the Virgin Islands.

<sup>88</sup> This sentence was amended by secs. 402 and 403 of the 1956 Amendments, effective with respect to fiscal years beginning after June 30, 1957. Prior thereto the sentence read: "for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$10,000,000."

allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year.<sup>89</sup> No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.<sup>90</sup>

(b) From the sums appropriated therefor and the allotments available under subsection (a) the Secretary of Health, Education, and Welfare shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Fiscal Service<sup>91</sup> of the Treasury Department, and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Health, Education, and Welfare.

\* \* \* \* \*

#### PAYMENT TO STATES

SEC. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind for each quarter, beginning with the quarter commencing October 1, 1956,<sup>92</sup> (1) in the case of any State other than Puerto Rico and the Virgin Islands, an amount<sup>93</sup> equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind in the form of money payments<sup>94</sup> under the State plan, not counting so much of such expenditure with respect to any individual for any month as exceeds \$60<sup>95</sup>—

(A) four-fifths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$30<sup>96</sup> multiplied by the total number of such individuals who received aid to the blind in the form of money payments<sup>97</sup> for such month; plus

(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A); and (2) in the case of Puerto Rico and the Virgin Islands, an amount<sup>98</sup> equal to one-half of the total of the sums expended during

<sup>89</sup> See footnote 5, p. 113.

<sup>90</sup> Sec. 331 (e) of the 1950 Amendments amended this subsection in several respects, effective for the fiscal years beginning after June 30, 1950. Prior thereto, this subsection provided for allotment among the States for each fiscal year of \$3,500,000, with the uniform or flat allotment being \$20,000.

<sup>91</sup> See footnote 6, p. 4.

<sup>92</sup> In the 1956 Amendments, under Part V, sec. 343 made certain changes in the Federal matching formula and sec. 345 stated that these changes "shall be effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted." See also footnote 95.

<sup>93</sup> Sec. 313 (c) (1) of the 1956 Amendments deleted the words "which shall be used exclusively as aid to the blind," that followed the word "amount" in sec. 1003 (a) (1) and sec. 1003 (a) (2), effective August 1, 1956.

<sup>94</sup> Sec. 303 (a) of the 1956 Amendments inserted the words "in the form of money payments," effective July 1, 1957.

<sup>95</sup> Sec. 343 of the 1956 Amendments substituted "\$60" and "\$30" for "\$55" and "\$25" respectively in sec. 1003 (a) (1) effective October 1, 1956. See also footnote 92.

This subsection had previously been amended in 1946, in 1948, and again in 1952 when amendments were enacted for a two-year period that was extended by the 1954 Amendments for an additional two years ending September 30, 1956. Prior to the 1946 changes, States were entitled to one-half of their aid to the blind expenditures up to a maximum Federal payment of \$20 for each case.

<sup>96</sup> See footnote 95.

<sup>97</sup> Sec. 303 (b) of the 1956 Amendments inserted the words "in the form of money payments," effective July 1, 1957.

<sup>98</sup> See footnote 93.

such quarter as aid to the blind in the form of money payments<sup>99</sup> under the State plan, not counting so much of such expenditure with respect to any individual for any month as exceeds \$30; and (3) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan,<sup>100</sup> including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care; and (4) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan in the form of medical or any other type of remedial care (including expenditures for insurance premiums for such care or the cost thereof), not counting so much of such expenditure for any month as exceeds the product of \$6 multiplied by the total number of individuals who received aid to the blind under the State plan for such month.<sup>101</sup>

\* \* \* \* \*

#### DISCLOSURE OF INFORMATION IN POSSESSION OF DEPARTMENT

SEC. 1106. (b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, may be complied with if the agency, person, or organization making the request agrees to pay for the information requested in such amount, if any (not exceeding the cost of furnishing the information), as may be determined by the Secretary. Payments for information furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare which prepared or furnished the information.

\* \* \* \* \*

#### PAYMENTS TO STATES

SEC. 1403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1956,<sup>102</sup> (1) in the

<sup>99</sup> See footnote 96.

<sup>100</sup> Sec. 313 (c) (2) of the 1956 Amendments substituted, in sec. 1003 (a) (3), the words that follow "State plan" for previous language which read "which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose" effective August 1, 1956.

<sup>101</sup> Clause (4) was added by sec. 303 (c) of the 1956 Amendments effective July 1, 1957. Pursuant to sec. 9 of the Act of April 19, 1950 (64 Stat. 44, 47), the Secretary of the Treasury must also pay to States, in addition to the amounts provided by sec. 1003 (a) of the Social Security Act, an amount equal to 80 percent of the State share of expenditures under the State plan with respect to Navajo and Hopi Indians.

See also sec. 1108 (p. 143) for a further limitation on the amounts which may be certified for payment to Puerto Rico and the Virgin Islands for any fiscal year.

<sup>102</sup> In the 1956 Amendments, under Part V, sec. 344 made certain changes in the Federal matching formula and sec. 345 stated that these changes "shall be effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted."

case of any State other than Puerto Rico and the Virgin Islands, an amount<sup>103</sup> equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled in the form of money payments<sup>104</sup> under the State plan, not counting so much of such expenditure with respect to any individual for any month as exceeds \$60—<sup>105</sup>

(A) four-fifths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$30<sup>106</sup> multiplied by the total number of such individuals who received aid to the permanently and totally disabled in the form of money payments<sup>107</sup> for such month; plus

(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A); and (2) in the case of Puerto Rico and the Virgin Islands, an amount<sup>108</sup> equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled in the form of money payments<sup>109</sup> under the State plan, not counting so much of such expenditure with respect to any individual for any month as exceeds \$30; and (3) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan,<sup>110</sup> including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of such aid to help them attain self-support or self-care; and (4) in the case of any State, an amount equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled under the State plan in the form of medical or any other type of remedial care (including expenditures for insurance premiums for such care or the cost thereof), not counting so much of such expenditure for any month as exceeds the product of \$6 multiplied by the total number of individuals who received aid to the permanently and totally disabled under the State plan for such month.<sup>111</sup>

<sup>103</sup> Sec. 814 (c) (1) of the 1956 Amendments deleted the words "which shall be used exclusively as aid to the permanently and totally disabled" that followed the word "amount" in sec. 1403 (a) (1) and sec. 1403 (a) (2), effective August 1, 1956.

<sup>104</sup> Sec. 804 (a) of the 1956 Amendments inserted the words "in the form of money payments," effective July 1, 1957.

<sup>105</sup> Sec. 844 of the 1956 Amendments substituted "\$60" and "\$30" for "\$55" and "\$25" respectively in sec. 1403 (a) (1) effective October 1, 1956. See also footnote 102.

This subsection had previously been amended in 1952 when amendments were enacted for a two-year period that was extended by the 1954 Amendments for an additional two years ending September 30, 1956.

<sup>106</sup> See footnote 105.

<sup>107</sup> Sec. 804 (b) of the 1956 Amendments inserted the words "in the form of money payments," effective July 1, 1957.

<sup>108</sup> See footnote 103.

<sup>109</sup> See footnote 104.

<sup>110</sup> Sec. 814 (c) (2) of the 1956 Amendments substituted in sec. 1403 (a) (3), the words that follow "State plan" for previous language which read "which amount shall be used for paying the costs of administering the State plan or for aid to the permanently and totally disabled, or both, and for no other purpose," effective August 1, 1956.

<sup>111</sup> Clause (4) was added by sec. 804 (c) of the 1956 Amendments, effective July 1, 1957. See also sec. 1103 (p. 143) for a further limitation on the amounts which may be certified for payment to Puerto Rico and the Virgin Islands for any fiscal year.



PROVISIONS OF INTERNAL REVENUE CODE OF 1954

Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

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SEC. 31. TAX WITHHELD ON WAGES.	

\* \* \* \* \*

(b) CREDIT FOR SPECIAL REFUNDS OF SOCIAL SECURITY TAX.—

(1) IN GENERAL.—The Secretary or his delegate may prescribe regulations providing for the crediting against the tax imposed by this subtitle of the amount determined by the taxpayer or the Secretary (or his delegate) to be allowable under section 6413 (c) as a special refund of tax imposed on wages. The amount allowed as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402.

(2) YEAR OF CREDIT.—Any amount to which paragraph (1) applies shall be allowed as a credit for the taxable year beginning in the calendar year during which the wages were received. If more than one taxable year begins in the calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

\* \* \* \* \*

SEC. 401. QUALIFIED PENSION, PROFIT-SHARING, AND STOCK BONUS PLANS.

(a) REQUIREMENTS FOR QUALIFICATION.—A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section—

(1) if contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under section 404 (a) (3) (B) (relating to deduction for contributions to profit-sharing and stock bonus plans), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;

(2) if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees

and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries;

(3) if the trust, or two or more trusts, or the trust or trusts and annuity plan or plans are designated by the employer as constituting parts of a plan intended to qualify under this subsection which benefits either—

(A) 70 percent or more of all the employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all the employees are eligible to benefit under the plan, excluding in each case employees who have been employed not more than a minimum period prescribed by the plan, not exceeding 5 years, employees whose customary employment is for not more than 20 hours in any one week, and employees whose customary employment is for not more than 5 months in any calendar year, or

(B) such employees as qualify under a classification set up by the employer and found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees;

and

(4) if the contributions or benefits provided under the plan do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees.

(5) A classification shall not be considered discriminatory within the meaning of paragraph (3) (B) or (4) merely because it excludes employees the whole of whose remuneration constitutes "wages" under section 3121 (a) (1) (relating to the Federal Insurance Contributions Act) or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of such provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, or merely because the contributions or benefits based on that part of an employee's remuneration which is excluded from "wages" by section 3121 (a) (1) differ from the contributions or benefits based on employee's remuneration not so excluded, or differ because of any retirement benefits created under State or Federal law.

(6) A plan shall be considered as meeting the requirements of paragraph (3) during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

(b) CERTAIN RETROACTIVE CHANGES IN PLAN.—A stock bonus, pension, profit-sharing, or annuity plan shall be considered as satisfying the requirements of paragraphs (3), (4), (5), and (6) of subsection (a) for the period beginning with the date on which it was put into effect and ending with the 15th day of the third month following the close of the taxable year of the employer in which the plan was put

in effect, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period.

(c) CROSS REFERENCE.—

For exemption from tax of a trust qualified under this section, see section 501 (a).

\* \* \* \* \*

**SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.**

(a) **EXEMPTION FROM TAXATION.**—An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502, 503, or 504.

(b) **TAX ON UNRELATED BUSINESS INCOME.**—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in part II of this subchapter (relating to tax on unrelated income), but, notwithstanding part II, shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(c) **LIST OF EXEMPT ORGANIZATIONS.**—The following organizations are referred to in subsection (a) :

(1) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes.

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if—

(A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and

(B) 85 percent or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses.

(10) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if—

(A) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and

(B) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14) Credit unions without capital stock organized and operated for mutual purposes and without profit; and corporations or

associations without capital stock organized before September 1, 1951, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

- (A) domestic building and loan associations,
- (B) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or
- (C) mutual savings banks not having capital stock represented by shares.

(15) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the gross amount received during the taxable year from the items described in section 822 (b) (other than paragraph (1) (d) thereof), and premiums (including deposits and assessments) does not exceed \$75,000.

(16) Corporations organized by an association subject to part III of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(d) RELIGIOUS AND APOSTOLIC ORGANIZATIONS.—The following organizations are referred to in subsection (a) : Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(e) CROSS REFERENCE.—

For nonexemption of Communist-controlled organizations, see section 11 (b) of the Internal Security Act of 1950 (64 Stat. 997; 50 U. S. C. 790 (b)).

\* \* \* \* \*

## SEC. 702. INCOME AND CREDITS OF PARTNER.

(a) GENERAL RULE.—In determining his income tax, each partner shall take into account separately his distributive share of the partnership's—

\* \* \* \* \*

(9) taxable income or loss, exclusive of items requiring separate computation under other paragraphs of this subsection.

\* \* \* \* \*

## SEC. 707. TRANSACTIONS BETWEEN PARTNER AND PARTNERSHIP.

\* \* \* \* \*

(c) **GUARANTEED PAYMENTS.**—To the extent determined without regard to the income of the partnership, payments to a partner for services or the use of capital shall be considered as made to one who is not a member of the partnership, but only for the purposes of section 61 (a) (relating to gross income) and section 162 (a) (relating to trade or business expenses).

## CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

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### SEC. 1401. RATE OF TAX.

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) in the case of any taxable year beginning after December 31, 1958, and before January 1, 1960, the tax shall be equal to  $3\frac{3}{4}$  percent of the amount of the self-employment income for such taxable year;

(2) in the case of any taxable year beginning after December 31, 1959, and before January 1, 1963, the tax shall be equal to  $4\frac{1}{2}$  percent of the amount of the self-employment income for such taxable year;

(3) in the case of any taxable year beginning after December 31, 1962, and before January 1, 1966, the tax shall be equal to  $5\frac{1}{4}$  percent of the amount of the self-employment income for such taxable year;

(4) in the case of any taxable year beginning after December 31, 1965, and before January 1, 1969, the tax shall be equal to 6 percent of the amount of the self-employment income for such taxable year; and

(5) in the case of any taxable year beginning after December 31, 1968, the tax shall be equal to  $6\frac{3}{4}$  percent of the amount of the self-employment income for such taxable year.<sup>1</sup>

### SEC. 1402. DEFINITIONS.

(a) **NET EARNINGS FROM SELF-EMPLOYMENT.**—The term “net earnings from self-employment” means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702 (a) (9) from any trade or business carried on by a partnership of which he is a

<sup>1</sup> Sec. 401 (a) of P. L. 85-840 replaced sec. 1401 in its entirety effective with respect to taxable years beginning after December 31, 1958. For sec. 1401 as it read prior to this amendment, see p. 827.

member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) there shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including live-stock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

(2) there shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 35) are received in the course of a trade or business as a dealer in stocks or securities;

(3) there shall be excluded any gain or loss—

(A) which is considered as gain or loss from the sale or exchange of a capital asset,

(B) from the cutting of timber, or the disposal of timber or coal, if section 631 applies to such gain or loss, or

(C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither—

(i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor

(ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) the deduction for net operating losses provided in section 172 shall not be allowed;

(5) if—

(A) any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife; and

(B) any portion of a partner's distributive share of the ordinary income or loss from a trade or business carried on by a partnership is community income or loss under the

community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) a resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to section 933;

(7) the deduction for personal exemptions provided in section 151 shall not be allowed;

(8) an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121 (h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States).<sup>2</sup>

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121 (g)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than \$1,800, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than \$1,800 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,200, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,200; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced

<sup>2</sup> Sec. 5 (b) of P. L. 85-239 replaced par. (8) in its entirety effective with respect to taxable years ending on or after December 31, 1957. For purposes of sec. 203 of the Social Security Act (other than subsec. (a)) this amendment is effective with respect to taxable years beginning after August 1957. For purposes of subsec. 203 (a) this amendment is effective only with respect to taxable years of the insured individual ending on or after December 31, 1957. See p. 327 for par. (8) as it read prior to amendment.



by the sum of all payments to which section 707 (c) applies) is not more than \$1,800, his distributive share of income described in section 702 (a) (9) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707 (c) applies) is more than \$1,800 and his distributive share (whether or not distributed) of income described in section 702 (a) (9) derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,200, his distributive share of income described in section 702 (a) (9) derived from such trade or business may, at his option, be deemed to be \$1,200.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

(b) **SELF-EMPLOYMENT INCOME.**—The term “self-employment income” means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year; except that such term shall not include—

(1) that part of the net earnings from self-employment which is in excess of —

(A) for any taxable year ending prior to 1955, (i) \$3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) for any taxable year ending after 1954 and before 1959,<sup>3</sup> (i) \$4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) for any taxable year ending after 1958, (i) \$4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; or<sup>4</sup>

(2) the net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

<sup>3</sup> Sec. 402 (a) (1) of P. L. 85-840 amended subpar. (B) by inserting “and before 1959.”

<sup>4</sup> Sec. 402 (a) (2) of P. L. 85-840 added subpar. (C).

For purposes of clause (1), the term “wages” includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or under an agreement entered into pursuant to the provisions of section 3121 (1) (relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations, as would be wages under section 3121 (a) if such services constituted employment under section 3121 (b)). An individual who is not a citizen of the United States but who is a resident of the Virgin Islands or a resident of Puerto Rico shall not, for purposes of this chapter be considered to be a nonresident alien individual.

(c) **TRADE OR BUSINESS.**—The term “trade or business”, when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that such term shall not include—

- (1) the performance of the functions of a public office;
  - (2) the performance of service by an individual as an employee (other than service described in section 3121 (b) (14) (B) performed by an individual who has attained the age of 18, service described in section 3121 (b) (16), and service described in paragraph (4) of this subsection);
  - (3) the performance of service by an individual as an employee or employee representative as defined in section 3231;
  - (4) the performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or
  - (5) the performance of service by an individual in the exercise of his profession as a doctor of medicine, or Christian Science practitioner; or the performance of such service by a partnership.
- The provisions of paragraph (4) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual during the period for which a certificate filed by such individual under subsection (e) is in effect. The provisions of paragraph (5) shall not apply to service performed by an individual in the exercise of his profession as a Christian Science practitioner during the period for which a certificate filed by him under subsection (e) is in effect.

(d) **EMPLOYEE AND WAGES.**—The term “employee” and the term “wages” shall have the same meaning as when used in chapter 21 (sec. 3101 and following, relating to Federal Insurance Contributions Act).

(e) **MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.**—

- (1) **WAIVER CERTIFICATE.**—Any individual who is (A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (B) a Christian Science practitioner may file a certificate (in

such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that he elects to have the insurance system established by title II of the Social Security Act extended to service described in subsection (c) (4), or service described in subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be, performed by him.

(2) **TIME FOR FILING CERTIFICATE.**—Any individual who desires to file a certificate pursuant to paragraph (1) must file such certificate on or before whichever of the following dates is later: (A)<sup>5</sup> the due date of the return (including any extension thereof) for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed, in the case of an individual referred to in paragraph (1) (A), without regard to subsection (c) (4), and, in the case of an individual referred to in paragraph (1) (B), without regard to subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner) of \$400 or more, any part of which was derived from the performance of service described in subsection (c) (4), or from the performance of service described in subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be; or (B) the due date of the return (including any extension thereof) for his second taxable year ending after 1956.<sup>6</sup>

(3) **EFFECTIVE DATE OF CERTIFICATE.**—A certificate filed pursuant to this subsection shall be effective for the first taxable year with respect to which it is filed (but in no case shall the certificate be effective for a taxable year with respect to which the period for filing a return has expired, or for a taxable year ending prior to 1955) and all succeeding taxable years. An election made pursuant to this subsection shall be irrevocable.

Notwithstanding the first sentence of this paragraph:

(A) A certificate filed by an individual after the date of the enactment of this subparagraph but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the first taxable year ending after 1955 and all succeeding taxable years.

(B) If an individual filed a certificate on or before the date of the enactment of this subparagraph which (but for this subparagraph) is effective only for the third or fourth taxable year ending after 1954 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending after 1955 and all succeeding taxable years if such individual files a supplemental certificate after the date

<sup>5</sup> Sec. 1 (a) of P. L. 85-239 inserted "whichever of the following dates is later: (A)" effective with respect to monthly insurance benefits as provided in sec. 4 of P. L. 85-239 (see p. 188). See secs. 4 (b) and 4 (c) of P. L. 85-239 on p. 189 for recomputation provisions.

<sup>6</sup> Sec. 1 (a) of P. L. 85-239 added subpar. (B) effective with respect to monthly insurance benefits as provided in sec. 4 of P. L. 85-239 (see p. 188). See secs. 4 (b) and 4 (c) of P. L. 85-239, on p. 189, for recomputation provisions.

of the enactment of this subparagraph and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956.

(C) A certificate filed by an individual after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the taxable year with respect to which it is filed and all succeeding taxable years.<sup>1</sup>

**(4) TREATMENT OF CERTAIN REMUNERATION PAID IN 1955 AND 1956 AS WAGES.—If—**

(A) in 1955 or 1956 an individual was paid remuneration for service described in section 3121 (b) (8) (A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121 (k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and

(B) on or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service,

then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment.<sup>2</sup>

**(f) PARTNER'S TAXABLE YEAR ENDING AS THE RESULT OF DEATH.—** In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) the term 'deceased partner's distributive share' includes the share of his estate or of any other person succeeding, by rea-

<sup>1</sup> Sec. 1 (b) of P. L. 85-239 added subpars. (A), (B), and (C) effective with respect to monthly insurance benefits as provided in sec. 4 of P. L. 85-239 (see p. 188). See secs. 4 (b) and 4 (c) of P. L. 85-239 for recomputation provision, p. 189.

<sup>2</sup> Sec. 2 of P. L. 85-239 added par. (4). For treatment under title II of remuneration referred to in par. (4) see sec. 3 of P. L. 85-239 on p. 188.

son of his death, to rights with respect to his partnership interest.\*

#### SEC. 1403. MISCELLANEOUS PROVISIONS.

(a) **TITLE OF CHAPTER.**—This chapter may be cited as the “Self-Employment Contributions Act of 1954”.

(b) **CROSS REFERENCES.**—

(1) For provisions relating to returns, see section 6017.

(2) For provisions relating to collection of taxes in Virgin Islands and Puerto Rico, see section 7651.

### Subtitle C—Employment Taxes

## CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

### SUBCHAPTER A—TAX ON EMPLOYEES

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#### SEC. 3101. RATE OF TAX.

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121 (a)) received by him with respect to employment (as defined in section 3121 (b))—

(1) with respect to wages received during the calendar year 1959, the rate shall be 2½ percent;

(2) with respect to wages received during the calendar years 1960 to 1962, both inclusive, the rate shall be 3 percent;

(3) with respect to wages received during the calendar years 1963 to 1965, both inclusive, the rate shall be 3½ percent;

(4) with respect to wages received during the calendar years 1966 to 1968, both inclusive, the rate shall be 4 percent; and

(5) with respect to wages received after December 31, 1968, the rate shall be 4½ percent.<sup>10</sup>

#### SEC. 3102. DEDUCTION OF TAX FROM WAGES.

(a) **REQUIREMENT.**—The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar quarter pays to an employee cash remuneration to which paragraph (7) (B) or (C) or (10) of section 3121 (a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the

\* Sec. 403 (a) of P. L. 85-840 added subsec. (f) effective (1) Except as provided in par. (2), with respect to individuals who die after August 28, 1958; (2) In the case of an individual who dies after 1955 and on or before August 28, 1958, only if—

(A) before January 1, 1960, there is filed a return (or amended return) of the tax imposed by chapter 2 of the Internal Revenue Code of 1954 for the taxable year ending as a result of his death, and

(B) in any case where the return is filed solely for the purpose of reporting net earnings from self-employment resulting from the amendment made by subsec. (a), the return is accompanied by the amount of tax attributable to such net earnings. In any case described in the preceding sentence, no interest or penalty shall be assessed or collected on the amount of any tax due under chapter 2 of such Code solely by reason of the operation of sec. 1402 (f) of such Code.

<sup>10</sup> Sec. 401 (b) of P. L. 85-840 amended sec. 8101 in its entirety effective with respect to remuneration paid after December 31, 1958. For sec. 8101 as it read prior to amendment, see p. 328.

calendar quarter is less than \$50; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8) (B) of section 3121 (a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis.

(b) **INDEMNIFICATION OF EMPLOYER.**—Every employer required so to deduct the tax shall be liable for the payment of such tax, and shall be indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

## SUBCHAPTER B—TAX ON EMPLOYERS

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### SEC. 3111. RATE OF TAX.

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121 (a)) paid by him with respect to employment (as defined in section 3121 (b))—

- (1) with respect to wages paid during the calendar year 1959, the rate shall be  $2\frac{1}{2}$  percent;
- (2) with respect to wages paid during the calendar years 1960 to 1962, both inclusive, the rate shall be 3 percent;
- (3) with respect to wages paid during the calendar years 1963 to 1965, both inclusive, the rate shall be  $3\frac{1}{2}$  percent;
- (4) with respect to wages paid during the calendar years 1966 to 1968, both inclusive, the rate shall be 4 percent; and
- (5) with respect to wages paid after December 31, 1968, the rate shall be  $4\frac{1}{2}$  percent.<sup>11</sup>

### SEC. 3112. INSTRUMENTALITIES OF THE UNITED STATES.

Notwithstanding any other provision of law (whether enacted before or after the enactment of this section) which grants to any instrumentality of the United States an exemption from taxation, such instrumentality shall not be exempt from the tax imposed by section 3111 unless such other provision of law grants a specific exemption, by reference to section 3111 (or the corresponding section of prior law), from the tax imposed by such section.

### SEC. 3113. DISTRICT OF COLUMBIA CREDIT UNIONS.

Notwithstanding the provisions of section 16 of the Act of June 23, 1932 (D. C. Code, sec. 26-516; 47 Stat. 331), or any other provision of law (whether enacted before or after the enactment of this section) which grants to any credit union chartered pursuant to such Act of June 23, 1932, an exemption from taxation, such credit union shall not be exempt from the tax imposed by section 3111.

<sup>11</sup> Sec. 401 (c) of P. L. 85-840 amended sec. 8111 in its entirety effective with respect to remuneration paid after December 31, 1958. For sec. 8111 as it read prior to amendment, see p. 328.

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## SEC. 3121. DEFINITIONS.

(a) **WAGES.**—For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to \$4,800<sup>12</sup> with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to \$4,800<sup>12</sup> to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

- (A) retirement, or
- (B) sickness or accident disability, or
- (C) medical or hospitalization expenses in connection with sickness or accident disability, or
- (D) death;

(3) any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

<sup>12</sup> Sec. 422 (b) of P. L. 85-840 changed “\$4,200” to “\$4,800” effective with respect to remuneration paid after 1958.

<sup>13</sup> See footnote 12.

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401 (a) which is exempt from tax under section 501 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 (a) (3), (4), (5), and (6);

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 3101 (or the corresponding section of prior law), or

(B) of any payment required from an employee under a State unemployment compensation law;

(7) (A) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(B) cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this subparagraph, the term "domestic service in a private home of the employer," does not include service described in subsection (g) (5);

(C) cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this subparagraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in subsection (g) (5);

(8) (A) remuneration paid in any medium other than cash for agricultural labor;

(B) cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (i) the cash remuneration paid in such year by the employer to the employee for such labor is \$150 or more, or (ii) the employee performs agricultural labor for the employer on 20 days or more during such year for cash remuneration computed on a time basis;

(9) any payment (other than vacation or sick pay) made to an employee after the month in which—

(A) in the case of a man, he attains the age of 65, or

(B) in the case of a woman, she attains the age of 62, if such employee did not work for the employer in the period for which such payment is made; or



(10) remuneration paid by an employer in any calendar quarter to an employee for service described in subsection (d) (3) (C) (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50.

'(b) **EMPLOYMENT.**—For purposes of this chapter, the term "employment" means any service performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (h)); except that, in the case of service performed after 1954, such term shall not include—

(1) service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended (65 Stat. 119; 7 U. S. C. 1461–1468), or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;<sup>14</sup>

(2) domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(4) service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft, when outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 3111 by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

(6) (A) service performed in the employ of the United States or in the employ of any instrumentality of the United States, if

<sup>14</sup> Sec. 404 (a) of P. L. 85-840 amended sec. 3121 (b) (1) by deleting former subpar. (A) and redesignating clauses (i) and (ii) of former subpar. (B) as subpar. (A) and (B) respectively effective with respect to service performed after 1958. See p. 328 for former subpar. (A) as it read prior to amendment.

such service is covered by a retirement system established by a law of the United States;

(B) service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939 on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Commodity Stabilization Service;

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

(C) service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) in the legislative branch;

(iii) in a penal institution of the United States by an inmate thereof;

(iv) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government; 5 U. S. C., sec. 1052);

(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

(vi) by any individual to whom the Civil Service Retirement Act does not apply because such individual is subject

to another retirement system (other than the retirement system of the Tennessee Valley Authority);

(7) service (other than service which, under subsection (j), constitutes covered transportation service) performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions;

(8) (A) service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) service performed in the employ of a religious, charitable, educational, or other organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (k) (or the corresponding subsection of prior law), is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed by such organization under subsection (k) (or the corresponding subsection of prior law),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii))<sup>15</sup> was filed, or

(iii) who, after the calendar quarter in which the certificate was filed with respect to a group described in section 3121

(k) (1) (E), became a member of such group, except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in section 3121 (k) (1) (E) with respect to which no certificate is in effect;<sup>16</sup>

(9) service performed by an individual as an employee or employee representative as defined in section 3231;

(10) (A) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a) (other than an organization described in section 401 (a)) or under section 521, if the remuneration for such service is less than \$50;

(B) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(11) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) service performed in the employ of an instrumentality wholly owned by a foreign government—

<sup>15</sup> Sec. 405 (b) of P. L. 85-840 inserted phrase in parenthesis effective with respect to certificates filed under sec. 8121 (k) (1) of the Internal Revenue Code of 1954, after August 28, 1958; and requests filed under subpar. (F) of such section after such date.

<sup>16</sup> Sec. 405 (b) of P. L. 85-840 added clause (iii) and the language following it through the end of par. (8) effective with respect to certificates filed under sec. 3121 (k) (1) of the Internal Revenue Code of 1954, after August 28, 1958; and requests filed under subpar. (F) of such section, after such date.

(A) if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) if the Secretary of State shall certify to the Secretary that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to State law;

(14) (A) service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(15) service performed in the employ of an international organization;

(16) service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced; or

(17) service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956.

(c) INCLUDED AND EXCLUDED SERVICE.—For purposes of this chapter, if the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment,

all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by subsection (b) (9).

(d) **EMPLOYEE.**—For purposes of this chapter, the term "employee" means—

(1) any officer of a corporation; or  
(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) any individual (other than an individual who is an employee under paragraph (1) or (2) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

(e) **STATE, UNITED STATES, AND CITIZEN.**—For purposes of this chapter—

(1) **STATE.**—The term "State" includes Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

(2) **UNITED STATES.**—The term "United States" when used in a geographical sense includes Puerto Rico and the Virgin Islands. An individual who is a citizen of Puerto Rico (but not otherwise a

citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

(f) **AMERICAN VESSEL AND AIRCRAFT.**—For purposes of this chapter, the term “American vessel” means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and the term “American aircraft” means an aircraft registered under the laws of the United States.

(g) **AGRICULTURAL LABOR.**—For purposes of this chapter, the term “agricultural labor” includes all service performed—

(1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, § 3; 12 U. S. C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) (A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which such service is performed;

(C) the provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(h) AMERICAN EMPLOYER.—For purposes of this chapter, the term "American employer" means an employer which is—

- (1) the United States or any instrumentality thereof,
- (2) an individual who is a resident of the United States,
- (3) a partnership, if two-thirds or more of the partners are residents of the United States,
- (4) a trust, if all of the trustees are residents of the United States, or
- (5) a corporation organized under the laws of the United States or of any State.

(i) COMPUTATION OF WAGES IN CERTAIN CASES.—

(1) DOMESTIC SERVICE.—For purposes of this chapter, in the case of domestic service described in subsection (a) (7) (B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this chapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to \$1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a) (7) (B).

(2) SERVICE IN THE UNIFORMED SERVICES.—For purposes of this chapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of subsection (m) (1) are applicable, the term "wages" shall, subject to the provisions of subsection (a) (1) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102 (10) of the Servicemen's and Veterans' Survivor Benefits Act.

(j) COVERED TRANSPORTATION SERVICE.—For purposes of this chapter—

(1) EXISTING TRANSPORTATION SYSTEMS—GENERAL RULE.—Except as provided in paragraph (2), all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) EXISTING TRANSPORTATION SYSTEMS—CASES IN WHICH NO TRANSPORTATION EMPLOYEES, OR ONLY CERTAIN EMPLOYEES, ARE COVERED.—Service performed in the employ of a State or political subdivision in connection with the operation of its public trans-

portation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system was, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951; except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment (including as employment service covered by an agreement under section 218 of the Social Security Act) in connection with the operation of such part of the transportation system acquired by the State or political subdivision, the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C).

(3) TRANSPORTATION SYSTEMS ACQUIRED AFTER 1950.—All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) DEFINITIONS.—For the purposes of this subsection—

(A) The term “general retirement system” means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition



service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this chapter or subchapter A of chapter 9 of the Internal Revenue Code of 1939 or was covered by an agreement made pursuant to section 218 of the Social Security Act and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of—

- (i) a State,
- (ii) one or more political subdivisions of a State, or
- (iii) a State and one or more of its political subdivisions.

**(k) EXEMPTION OF RELIGIOUS, CHARITABLE, AND CERTAIN OTHER ORGANIZATIONS.—**

**(1) WAIVER OF EXEMPTION BY ORGANIZATION.—**

(A) An organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that it desires to have the insurance system established by title II of the Social Security Act extended to service performed by its employees and that at least two-thirds of its employees concur in the filing of the certificate. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee who concurs in the filing of the certificate. Such list may be amended at any time prior to the expiration of the twenty-fourth month following the calendar quarter in which the certificate is filed by filing with the prescribed official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter.

(B) The certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210 (a) (8) (B) of the Social Security Act) for the period beginning with whichever of the following may be designated by the organization:

- (i) the first day of the calendar quarter in which the certificate is filed,
- (ii) the first day of the calendar quarter succeeding such quarter, or
- (iii) the first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that, in the case of a certificate filed prior to January 1, 1960, such date may not be earlier than January 1, 1956, and in the case of a certificate filed after 1959, such date may not be earlier than the first day of the

fourth calendar quarter preceding the quarter in which such certificate is filed.

(C) In the case of service performed by an employee whose name appears on a supplemental list filed after the first month following the calendar quarter in which the certificate is filed, the certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210 (a) (8) (B) of the Social Security Act) only with respect to service performed by such individual for the period beginning with the first day of the calendar quarter in which such supplemental list is filed.

(D) The period for which a certificate filed pursuant to this subsection or the corresponding subsection of prior law is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving 2 years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than 8 years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this chapter.

(E) If an organization described in subparagraph (A) employs both individuals who are in positions covered by a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof and individuals who are not in such positions, the organization shall divide its employees into two separate groups. One group shall consist of all employees who are in positions covered by such a fund or system and (i) are members of such fund or system, or (ii) are not members of such fund or system but are eligible to become members thereof; and the other group shall consist of all remaining employees. An organization which has so divided its employees into two groups may file a certificate pursuant to subparagraph (A) with respect to the employees in one of the groups if at least two-thirds of the employees in such group concur in the filing of the certificate. The organization may also file such a certificate with respect to the employees in the other group if at least two-thirds of the employees in such other group concur in the filing of such certificate.

(F) An organization which filed a certificate under this subsection after 1955 but prior to the enactment of this subparagraph may file a request at any time before 1960 to have such certificate effective, with respect to the service of individuals who concurred in the filing of such certificate (initially or through the filing of a supplemental list) prior to enactment of this subparagraph and who concur in the filing of such new request, for the period beginning with the first day of any calendar quarter preceding the first calendar quarter for which it was effective and following the last

calendar quarter of 1955. Such request shall be filed with such official and in such form and manner as may be prescribed by regulations made under this chapter. If a request is filed pursuant to this subparagraph—

(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for any calendar quarter resulting from the filing of such request shall be the last day of the calendar month following the calendar quarter in which the request is filed; and

(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(G) If a certificate filed pursuant to this paragraph is effective for one or more calendar quarters prior to the quarter in which the certificate is filed, then—

(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.<sup>17</sup>

(2) **TERMINATION OF WAIVER PERIOD BY SECRETARY OR HIS DELEGATE.**—If the Secretary or his delegate finds that any organization which filed a certificate pursuant to this subsection or the corresponding subsection of prior law has failed to comply substantially with the requirements applicable with respect to the taxes imposed by this chapter or the corresponding provisions of prior law or is no longer able to comply with the requirements applicable with respect to the taxes imposed by this chapter, the Secretary or his delegate shall give such organization not less than 60 days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary or his delegate by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Secretary of Health, Education, and Welfare.

(3) **NO RENEWAL OF WAIVER.**—In the event the period covered by a certificate filed pursuant to this subsection or the corresponding subsection of prior law is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection.

<sup>17</sup> Sec. 405 (a) of P. L. 85-840 replaced sec. 3121 (k) (1) in its entirety effective with respect to certificates filed under sec. 3121 (k) (1) of the Internal Revenue Code of 1954 after August 28, 1958, and requests filed under subpar. (F) of such section after such date. For sec. 3121 (k) (1) as it read prior to amendment, see p. 328.

**(1) AGREEMENTS ENTERED INTO BY DOMESTIC CORPORATIONS WITH RESPECT TO FOREIGN SUBSIDIARIES.—**

(1) **AGREEMENT WITH RESPECT TO CERTAIN EMPLOYEES OF FOREIGN SUBSIDIARIES.**—The Secretary or his delegate shall, at the request of any domestic corporation, enter into an agreement (in such form and manner as may be prescribed by the Secretary or his delegate) with any such corporation which desires to have the insurance system established by title II of the Social Security Act extended to service performed outside the United States in the employ of any one or more of its foreign subsidiaries (as defined in paragraph (8)) by all employees who are citizens of the United States, except that the agreement shall not be applicable to any service performed by, or remuneration paid to, an employee if such service or remuneration would be excluded from the term "employment" or "wages", as defined in this section, had the service been performed in the United States. Such agreement may be amended at any time so as to be made applicable, in the same manner and under the same conditions, with respect to any other foreign subsidiary of such domestic corporation. Such agreement shall be applicable with respect to citizens of the United States who, on or after the effective date of the agreement, are employees of and perform services outside the United States for any foreign subsidiary specified in the agreement. Such agreement shall provide—

(A) that the domestic corporation shall pay to the Secretary or his delegate, at such time or times as the Secretary or his delegate may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 (including amounts equivalent to the interest, additions to the taxes, additional amounts, and penalties which would be applicable) with respect to the remuneration which would be wages if the services covered by the agreement constituted employment as defined in this section; and

(B) that the domestic corporation will comply with such regulations relating to payments and reports as the Secretary or his delegate may prescribe to carry out the purposes of this subsection.

(2) **EFFECTIVE PERIOD OF AGREEMENT.**—An agreement entered into pursuant to paragraph (1) shall be in effect for the period beginning with the first day of the calendar quarter in which such agreement is entered into or the first day of the succeeding calendar quarter, as may be specified in the agreement, but in no case prior to January 1, 1955; except that in case such agreement is amended to include the services performed for any other subsidiary and such amendment is executed after the first month following the first calendar quarter for which the agreement is in effect, the agreement shall be in effect with respect to service performed for such other subsidiary only after the calendar quarter in which such amendment is executed.

(3) **TERMINATION OF PERIOD BY A DOMESTIC CORPORATION.**—The period for which an agreement entered into pursuant to paragraph (1) of this subsection is effective may be terminated with respect to any one or more of its foreign subsidiaries by the

domestic corporation, effective at the end of a calendar quarter, upon giving two years' advance notice in writing, but only if, at the time of the receipt of such notice, the agreement has been in effect for a period of not less than eight years. The notice of termination may be revoked by the domestic corporation by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner as may be prescribed by regulations. Notwithstanding any other provision of this subsection, the period for which any such agreement is effective with respect to any foreign corporation shall terminate at the end of any calendar quarter in which the foreign corporation, at any time in such quarter, ceases to be a foreign subsidiary as defined in paragraph (8).

(4) **TERMINATION OF PERIOD BY SECRETARY.**—If the Secretary or his delegate finds that any domestic corporation which entered into an agreement pursuant to this subsection has failed to comply substantially with the terms of such agreement, the Secretary or his delegate shall give such domestic corporation not less than sixty days' advance notice in writing that the period covered by such agreement will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary or his delegate by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the domestic corporation. No notice of termination or of revocation thereof shall be given under this paragraph to a domestic corporation without the prior concurrence of the Secretary of Health, Education, and Welfare.

(5) **NO RENEWAL OF AGREEMENT.**—If any agreement entered into pursuant to paragraph (1) of this subsection is terminated in its entirety (A) by a notice of termination filed by the domestic corporation pursuant to paragraph (3), or (B) by a notice of termination given by the Secretary or his delegate pursuant to paragraph (4), the domestic corporation may not again enter into an agreement pursuant to paragraph (1). If any such agreement is terminated with respect to any foreign subsidiary, such agreement may not thereafter be amended so as again to make it applicable with respect to such subsidiary.

(6) **DEPOSITS IN TRUST FUNDS.**—For purposes of section 201 of the Social Security Act, relating to appropriations to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, such remuneration—

(A) paid for services covered by an agreement entered into pursuant to paragraph (1) as would be wages if the services constituted employment, and

(B) as is reported to the Secretary or his delegate pursuant to the provisions of such agreement or of the regulations issued under this subsection.

shall be considered wages subject to the taxes imposed by this chapter.

(7) **OVERPAYMENTS AND UNDERPAYMENTS.**—

(A) If more or less than the correct amount due under an agreement entered into pursuant to this subsection is paid

with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be required by regulations prescribed by the Secretary or his delegate.

(B) If an overpayment cannot be adjusted under subparagraph (A), the amount thereof shall be paid by the Secretary or his delegate, through the Fiscal Service of the Treasury Department, but only if a claim for such overpayment is filed with the Secretary or his delegate within two years from the time such overpayment was made.

(8) **DEFINITION OF FOREIGN SUBSIDIARY.**—For purposes of this subsection and section 210 (a) of the Social Security Act, a foreign subsidiary of a domestic corporation is—

(A) a foreign corporation not less than 20 percent of the voting stock of which is owned by such domestic corporation; or

(B) a foreign corporation more than 50 percent of the voting stock of which is owned by the foreign corporation described in subparagraph (A).

(9) **DOMESTIC CORPORATION AS SEPARATE ENTITY.**—Each domestic corporation which enters into an agreement pursuant to paragraph (1) of this subsection shall, for purposes of this subsection and section 6413 (c) (2) (C), relating to special refunds in the case of employees of certain foreign corporations, be considered an employer in its capacity as a party to such agreement separate and distinct from its identity as a person employing individuals on its own account.

(10) **REGULATIONS.**—Regulations of the Secretary or his delegate to carry out the purposes of this subsection shall be designed to make the requirements imposed on domestic corporations with respect to services covered by an agreement entered into pursuant to this subsection the same, so far as practicable, as those imposed upon employers pursuant to this title with respect to the taxes imposed by this chapter.

(m) **SERVICE IN THE UNIFORMED SERVICES.**—For purposes of this chapter—

(1) **INCLUSION OF SERVICE.**—The term “employment” shall, notwithstanding the provisions of subsection (b) of this section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) **ACTIVE DUTY.**—The term “active duty” means “active duty” as described in section 102 of the Servicemen’s and Veterans’ Survivor Benefits Act, except that it shall also include “active duty for training” as described in such section.

(3) **INACTIVE DUTY TRAINING.**—The term “inactive duty training” means “inactive duty training” as described in such section 102.

(n) **MEMBER OF A UNIFORMED SERVICE.**—For purposes of this chapter, the term “member of a uniformed service” means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve com-

ponent of a uniformed service as defined in section 102 (3) of the Servicemen's and Veterans' Survivor Benefits Act), or in one of those services without specification of component, or as a commissioned officer of the Coast and Geodetic Survey or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—

- (1) a retired member of any of those services;
- (2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;
- (3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;
- (4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and
- (5) any person while en route to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—
  - (A) who has been provisionally accepted for such duty;
  - or
  - (B) who, under the Universal Military Training and Service Act, has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

(o) **CREW LEADER.**—For purposes of this chapter, the term “crew leader” means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. For purposes of this chapter and chapter 2, a crew leader shall, with respect to service performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

#### **SEC. 3122. FEDERAL SERVICE.**

In the case of the taxes imposed by this chapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of section 3121 (m) (1) are applicable, the determination whether an individual has performed service which constitutes employment as defined in section 3121 (b), the determination of the amount of remuneration for such service which constitutes wages as defined in section 3121 (a), and the return and payment of

the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the \$4,800<sup>18</sup> limitation in section 3121 (a) (1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121 (a) (1). Payments of the tax imposed under section 3111 with respect to service, performed by an individual as a member of a uniformed service, to which the provisions of section 3121 (m) (1) are applicable, shall be made from appropriations available for the pay of members of such uniformed service. The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this section<sup>19</sup> shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of this section<sup>20</sup> the Secretary shall be deemed to be the head of such instrumentality.

#### SEC. 3123. DEDUCTIONS AS CONSTRUCTIVE PAYMENTS.

Whenever under this chapter or any act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of any employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

#### SEC. 3124. ESTIMATE OF REVENUE REDUCTION.

The Secretary or his delegate at intervals of not longer than 3 years shall estimate the reduction in the amount of taxes collected under this chapter by reason of the operation of section 3121 (b) (10) and shall include such estimate in his annual report.

#### SEC. 3125. SHORT TITLE.

This chapter may be cited as the "Federal Insurance Contributions Act."

<sup>18</sup> Sec. 402 (c) of P. L. 85-840 changed "\$4,200" to "\$4,800," effective with respect to remuneration paid after 1958.

<sup>19</sup> Sec. 70 of the Technical Amendments Act of 1958 changed "subsection" to "section".

<sup>20</sup> See footnote 19.



CHAPTER 22—RAILROAD RETIREMENT TAX ACT <sup>21</sup>

## SUBCHAPTER D—GENERAL PROVISIONS

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## SEC. 3231. DEFINITIONS.

(a) **EMPLOYER.**—For purposes of this chapter, the term “employer” means any carrier (as defined in subsection (g)), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer; except that the term “employer” shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Secretary or his delegate, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this exception. The term “employer” shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended (44 Stat. 577; 45 U. S. C., chapter 8), and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitutions and bylaws of such organizations. The term “employer” shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

<sup>21</sup> Only sec. 3231 is reprinted here. For other sections of chapter 22, see the Internal Revenue Code of 1954.

(b) **EMPLOYEE.**—For purposes of this chapter, the term “employee” means any individual in the service of one or more employers for compensation; except that the term “employee” shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual shall be deemed to have been in the employment relation to a carrier on August 29, 1935, if—

(1) he was on that date on leave of absence from his employment, expressly granted to him by the carrier by whom he was employed, or by a duly authorized representative of such carrier, and the grant of such leave of absence was established to the satisfaction of the Railroad Retirement Board before July 1947; or

(2) he was in the service of a carrier after August 29, 1935, and before January 1946 in each of 6 calendar months, whether or not consecutive; or

(3) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last carrier by whom he was employed or its corporate or operating successor, but—

(A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such carrier and thereafter remained continuously disabled until he attained age 65 or until August 1945, or

(B) solely for such last stated reason a carrier by whom he was employed before August 29, 1935, or a carrier who is its successor did not on or after August 29, 1935, and before August 1945 call him to return to service, or

(C) if he was so called he was solely for such reason unable to render service in 6 calendar months as provided in paragraph (2); or

(4) he was on August 29, 1935, absent from the service of a carrier by reason of a discharge which, within 1 year after the effective date thereof, was protested, to an appropriate labor representative or to the carrier, as wrongful, and which was followed within 10 years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights;

except that an individual shall not be deemed to have been on August 29, 1935, in the employment relation to a carrier if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937 (50 Stat. 312; 45 U. S. C. 228f), or if during the last payroll period before August 29, 1935, in which he rendered service to a carrier he was not in the service of an employer, in accordance with subsection (d), with respect to any service in such payroll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a). The term “employee” includes an officer of an employer. The term “employee” shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tippie, or the loading of coal at the tippie.

(c) **EMPLOYEE REPRESENTATIVE.**—For purposes of this chapter, the term “employee representative” means any officer or official representative of a railway labor organization other than a labor organization included in the term “employer” as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act (44 Stat. 577; 45 U. S. C., chapter 8), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(d) **SERVICE.**—For purposes of this chapter, an individual is in the service of an employer whether his service is rendered within or without the United States, if—

(1) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and

(2) he renders such service for compensation;  
except that an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States, only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if—

(3) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or

(4) the headquarters of such local lodge or division is located in the United States;  
and an individual shall be deemed to be in the service of such a general committee only if—

(5) he is representing a local lodge or division described in paragraph (3) or (4) immediately above; or

(6) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or

(7) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to section 1 (c) of the Railroad Retirement Act of 1937 (50 Stat. 308; 45 U. S. C. 228a) shall be applicable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would

result in the compensation of the individual being less than 10 percent of his remuneration for such service, no part of such remuneration shall be regarded as compensation;

*Provided however*, That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

(e) COMPENSATION.—For purposes of this chapter—

(1) The term “compensation” means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201. Compensation which is earned during the period for which the Secretary or his delegate shall require a return of taxes under this chapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only. For the purpose of determining the amount of taxes under sections 3201 and 3221, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than \$3. Compensation for service as a delegate to a national or international convention of a railway labor organization defined as an “employer” in subsection (a) of this section shall be disregarded for purposes of determining the amount of taxes due pursuant to this chapter if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his “years of service” for purposes of the Railroad Retirement Act.

(2) A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid “for time lost” the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

(f) **COMPANY.**—For purposes of this chapter, the term “company” includes corporations, associations, and joint-stock companies.

(g) **CARRIER.**—For purposes of this chapter, the term “carrier” means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act (49 U. S. C., chapter 1).

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## CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT <sup>22</sup>

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### SEC. 3301. RATE OF TAX.

There is hereby imposed on every employer (as defined in section 3306 (a)) for the calendar year 1955 and for each calendar year thereafter an excise tax, with respect to having individuals in his employ, equal to 3 percent of the total wages (as defined in section 3306 (b)) paid by him during the calendar year with respect to employment (as defined in section 3306 (c)) after December 31, 1938.

### SEC. 3302. CREDITS AGAINST TAX.

#### (a) CONTRIBUTIONS TO STATE UNEMPLOYMENT FUNDS.—

(1) The taxpayer may, to the extent provided in this subsection and subsection (c), credit against the tax imposed by section 3301 the amount of contributions paid by him into an unemployment fund maintained during the taxable year under the unemployment compensation law of a State which is certified for the taxable year as provided in section 3304.

(2) The credit shall be permitted against the tax for the taxable year only for the amount of contributions paid with respect to such taxable year.

(3) The credit against the tax for any taxable year shall be permitted only for contributions paid on or before the last day upon which the taxpayer is required under section 6071 to file a return for such year; except that credit shall be permitted for contributions paid after such last day, but such credit shall not exceed 90 percent of the amount which would have been allowable as credit on account of such contributions had they been paid on or before such last day.

(4) Upon the payment of contributions into the unemployment fund of a State which are required under the unemployment compensation law of that State with respect to remuneration on the basis of which, prior to such payment into the proper fund, the taxpayer erroneously paid an amount as contributions under another unemployment compensation law, the payment into the proper fund shall, for purposes of credit against the tax, be

<sup>22</sup> This chapter has been compiled by the United States Department of Labor. See footnote 1, p. 110.

deemed to have been made at the time of the erroneous payment. If, by reason of such other law, the taxpayer was entitled to cease paying contributions with respect to services subject to such other law, the payment into the proper fund shall, for purposes of credit against the tax, be deemed to have been made on the date the return for the taxable year was filed under section 6071.

(b) **ADDITIONAL CREDIT.**—In addition to the credit allowed under subsection (a), a taxpayer may credit against the tax imposed by section 3301 for any taxable year an amount, with respect to the unemployment compensation law of each State certified for the taxable year as provided in section 3303 (or with respect to any provisions thereof so certified), equal to the amount, if any, by which the contributions required to be paid by him with respect to the taxable year were less than the contributions such taxpayer would have been required to pay if throughout the taxable year he had been subject under such State law to the highest rate applied thereunder in the taxable year to any person having individuals in his employ, or to a rate of 2.7 percent, whichever rate is lower.

(c) **LIMIT ON TOTAL CREDITS.**—

(1) The total credits allowed to a taxpayer under this section shall not exceed 90 percent of the tax against which such credits are allowable.

(2) If an advance or advances have been made to the unemployment account of a State under title XII of the Social Security Act, and if any balance of such advance or advances has not been returned to the Federal unemployment account as provided in that title before December 1 of the taxable year, then the total credits (after other reductions under this section) otherwise allowable under this section for such taxable year in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced—

(A) in the case of a taxable year beginning with the fourth consecutive January 1 on which such a balance of unreturned advances existed, by 5 percent of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State; and

(B) in the case of any succeeding taxable year beginning with a consecutive January 1 on which such a balance of unreturned advances existed, by an additional 5 percent, for each such succeeding taxable year, of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State.

For purposes of this paragraph, wages shall be attributable to a particular State if they are subject to the unemployment compensation law of the State, or (if not subject to the unemployment compensation law of any State) if they are determined (under rules or regulations prescribed by the Secretary or his delegate) to be attributable to such State.

#### **SEC. 3303. CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE.**

(a) **STATE STANDARDS.**—A taxpayer shall be allowed an additional credit under section 3302 (b) with respect to any reduced rate of contributions permitted by a State law, only if the Secretary of Labor finds that under such law—

(1) no reduced rate of contributions to a pooled fund or to a partially pooled account is permitted to a person (or group of persons) having individuals in his (or their) employ except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk during not less than the 3 consecutive years immediately preceding the computation date;

(2) no reduced rate of contributions to a guaranteed employment account is permitted to a person (or a group of persons) having individuals in his (or their) employ unless—

(A) the guaranty of remuneration was fulfilled in the year preceding the computation date; and

(B) the balance of such account amounts to not less than  $2\frac{1}{2}$  percent of that part of the payroll or payrolls for the 3 years preceding the computation date by which contributions to such account were measured; and

(C) such contributions were payable to such account with respect to 3 years preceding the computation date;

(3) no reduced rate of contributions to a reserve account is permitted to a person (or group of persons) having individuals in his (or their) employ unless—

(A) compensation has been payable from such account throughout the year preceding the computation date, and

(B) the balance of such account amounts to not less than five times the largest amount of compensation paid from such account within any 1 of the 3 years preceding such date, and

(C) the balance of such account amounts to not less than  $2\frac{1}{2}$  percent of that part of the payroll or payrolls for the 3 years preceding such date by which contributions to such account were measured, and

(D) such contributions were payable to such account with respect to the 3 years preceding the computation date.

For any person (or group of persons) who has (or have) not been subject to the State law for a period of time sufficient to compute the reduced rates permitted by paragraphs (1), (2), and (3) of this subsection on a 3-year basis, the period of time required may be reduced to the amount of time the person (or group of persons) has (or have) had experience under or has (or have) been subject to the State law, whichever is appropriate, but in no case less than 1 year immediately preceding the computation date.

(b) **CERTIFICATION BY THE SECRETARY OF LABOR WITH RESPECT TO ADDITIONAL CREDIT ALLOWANCE.—**

(1) On December 31 in each taxable year, the Secretary of Labor shall certify to the Secretary the law of each State (certified with respect to such year by the Secretary of Labor as provided in section 3304) with respect to which he finds that reduced rates of contributions were allowable with respect to such taxable year only in accordance with the provisions of subsection (a).

(2) If the Secretary of Labor finds that under the law of a single State (certified by the Secretary of Labor as provided in section 3304) more than one type of fund or account is maintained, and reduced rates of contributions to more than one type of fund or account were allowable with respect to any taxable

year, and one or more of such reduced rates were allowable under conditions not fulfilling the requirements of subsection (a), the Secretary of Labor shall, on December 31 of such taxable year, certify to the Secretary only those provisions of the State law pursuant to which reduced rates of contributions were allowable with respect to such taxable year under conditions fulfilling the requirements of subsection (a), and shall, in connection therewith, designate the kind of fund or account, as defined in subsection (c), established by the provisions so certified. If the Secretary of Labor finds that a part of any reduced rate of contributions payable under such law or under such provisions is required to be paid into one fund or account and a part into another fund or account, the Secretary of Labor shall make such certification pursuant to this paragraph as he finds will assure the allowance of additional credits only with respect to that part of the reduced rate of contributions which is allowed under provisions which do fulfill the requirements of subsection (a).

(3) The Secretary of Labor shall, within 30 days after any State law is submitted to him for such purpose, certify to the State agency his findings with respect to reduced rates of contributions to a type of fund or account, as defined in subsection (c), which are allowable under such State law only in accordance with the provisions of subsection (a). After making such findings, the Secretary of Labor shall not withhold his certification to the Secretary of such State law, or of the provisions thereof with respect to which such findings were made, for any taxable year pursuant to paragraph (1) or (2) unless, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds the State law no longer contains the provisions specified in subsection (a) or the State has, with respect to such taxable year, failed to comply substantially with any such provision.

(c) DEFINITIONS.—As used in this section—

(1) RESERVE ACCOUNT.—The term “reserve account” means a separate account in an unemployment fund, maintained with respect to a person (or group of persons) having individuals in his (or their) employ, from which account, unless such account is exhausted, is paid all and only compensation payable on the basis of services performed for such person (or for one or more of the persons comprising the group).

(2) POOLED FUND.—The term “pooled fund” means an unemployment fund or any part thereof (other than a reserve account or a guaranteed employment account) into which the total contributions of persons contributing thereto are payable, in which all contributions are mingled and undivided, and from which compensation is payable to all individuals eligible for compensation from such fund.

(3) PARTIALLY POOLED ACCOUNT.—The term “partially pooled account” means a part of an unemployment fund in which part of the fund all contributions thereto are mingled and undivided, and from which part of the fund compensation is payable only to individuals to whom compensation would be payable from a reserve account or from a guaranteed employment account but for



the exhaustion or termination of such reserve account or of such guaranteed employment account. Payments from a reserve account or guaranteed employment account into a partially pooled account shall not be construed to be inconsistent with the provisions of paragraph (1) or (4).

(4) **GUARANTEED EMPLOYMENT ACCOUNT.**—The term “guaranteed employment account” means a separate account, in an un-employment fund, maintained with respect to a person (or group of persons) having individuals in his (or their) employ who, in accordance with the provisions of the State law or of a plan thereunder approved by the State agency,

(A) guarantees in advance at least 30 hours of work, for which remuneration will be paid at not less than stated rates, for each of 40 weeks (or if more, 1 weekly hour may be deducted for each added week guaranteed) in a year, to all the individuals who are in his (or their) employ in, and who continue to be available for suitable work in, one or more distinct establishments, except that any such individual’s guaranty may commence after a probationary period (included within the 11 or less consecutive weeks immediately following the first week in which the individual renders services), and

(B) give security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties, from which account, unless such account is exhausted or terminated, is paid all and only compensation, payable on the basis of services performed for such person (or for one or more of the persons comprising the group), to any such individual whose guaranteed remuneration has not been paid (either pursuant to the guaranty or from the security or assurance provided for the fulfillment of the guaranty), or whose guaranty is not renewed and who is otherwise eligible for compensation under the State law.

(5) **YEAR.**—The term “year” means any 12 consecutive calendar months.

(6) **BALANCE.**—The term “balance”, with respect to a reserve account or a guaranteed employment account, means the amount standing to the credit of the account as of the computation date; except that, if subsequent to January 1, 1940, any moneys have been paid into or credited to such account other than payments thereto by persons having individuals in their employ, such term shall mean the amount in such account as of the computation date less the total of such other moneys paid into or credited to such account subsequent to January 1, 1940.

(7) **COMPUTATION DATE.**—The term “computation date” means the date, occurring at least once in each calendar year and within 27 weeks prior to the effective date of new rates of contributions, as of which such rates are computed.

(8) **REDUCED RATE.**—The term “reduced rate” means a rate of contributions lower than the standard rate applicable under the State law, and the term “standard rate” means the rate on the basis of which variations therefrom are computed.

(d) **VOLUNTARY CONTRIBUTIONS.**—A State law may, without being deemed to violate the standards set forth in subsection (a), permit

voluntary contributions to be used in the computation of reduced rates if such contributions are paid prior to the expiration of 120 days after the beginning of the year for which such rates are effective.

**SEC. 3304. APPROVAL OF STATE LAWS.**

(a) **REQUIREMENTS.**—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

(1) all compensation is to be paid through public employment offices or such other agencies as the Secretary of Labor may approve;

(2) no compensation shall be payable with respect to any day of unemployment occurring within 2 years after the first day of the first period with respect to which contributions are required;

(3) all money received in the unemployment fund shall (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305 (b)) immediately upon such receipt be paid over to the Secretary to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (49 Stat. 640; 52 Stat. 1104, 1105; 42 U. S. C. 1104);

(4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305 (b); except that—

(A) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration; and

(B) the amounts specified by section 903 (c) (2) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices;

(5) compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(6) all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

(b) **NOTIFICATION.**—The Secretary of Labor shall, upon approving such law, notify the governor of the State of his approval.

(c) **CERTIFICATION.**—On December 31 of each taxable year the Secretary of Labor shall certify to the Secretary each State whose law

he has previously approved, except that he shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has amended its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision and such finding has become effective. Such finding shall become effective on the 90th day after the governor of the State has been notified thereof, unless the State has before such 90th day so amended its law that it will comply substantially with the Secretary of Labor's interpretation of the provision of subsection (a), in which event such finding shall not become effective. No finding of a failure to comply substantially with the provision in State law specified in paragraph (5) of subsection (a) shall be based on an application or interpretation of State law with respect to which further administrative or judicial review is provided for under the laws of the State.

(d) NOTICE OF NONCERTIFICATION.—If, at any time during the taxable year, the Secretary of Labor has reason to believe that a State whose law he has previously approved may not be certified under subsection (c), he shall promptly so notify the governor of such State.

#### SEC. 3305. APPLICABILITY OF STATE LAW.<sup>23</sup>

(a) INTERSTATE AND FOREIGN COMMERCE.—No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate or foreign commerce, or that the State law does not distinguish between employees engaged in interstate or foreign commerce and those engaged in intrastate commerce.

(b) FEDERAL INSTRUMENTALITIES IN GENERAL.—The legislature of any State may require any instrumentality of the United States (except such as are (1) wholly owned by the United States, or (2) exempt from the tax imposed by section 3301 by virtue of any other provision of law), and the individuals in its employ, to make contributions to an unemployment fund under a State unemployment compensation law approved by the Secretary of Labor under section 3304 and (except as provided in section 5240 of the Revised Statutes, as amended (12 U. S. C. 484), and as modified by subsection (c)) to comply otherwise with such law. The permission granted in this subsection shall apply (A) only to the extent that no discrimination is made against such instrumentality, so that if the rate of contribution is uniform upon all other persons subject to such law on account of having individuals in their employ, and upon all employees of such persons, respectively, the contributions required of such instrumentality or the individuals in its employ shall not be at a greater rate than is required of such other persons and such employees, and if the rates are determined separately for different persons or classes of persons having individuals in their employ or for different classes of employees, the

<sup>23</sup> Public Law 196, 83d Cong., amended section 1606 of the Internal Revenue Code of 1939 (the predecessor of sec. 3305 of the Internal Revenue Code of 1954) by adding pars. (g), (h), and (i) below and further provided in sec. 3 of said public law as follows:

"Nothing in the amendments made by this Act shall be construed as constituting officers and members of the crew of American vessels (1) owned by or bareboat chartered to the United States and (2) whose business is conducted by general agents of the Secretary of Commerce employees of such general agents except for the purposes of State unemployment compensation and temporary disability insurance laws and the Federal Unemployment Tax Act."

determination shall be based solely upon unemployment experience and other factors bearing a direct relation to unemployment risk, and (B) only if such State law makes provision for the refund of any contributions required under such law from an instrumentality of the United States or its employees for any year in the event said State is not certified by the Secretary of Labor under section 3304 with respect to such year.

(c) **NATIONAL BANKS.**—Nothing contained in section 5240 of the Revised Statutes, as amended (12 U. S. C. 484), shall prevent any State from requiring any national banking association to render returns and reports relative to the association's employees, their remuneration and services, to the same extent that other persons are required to render like returns and reports under a State law requiring contributions to an unemployment fund. The Comptroller of the Currency shall, upon receipt of a copy of any such return or report of a national banking association from, and upon request of, any duly authorized official, body, or commission of a State, cause an examination of the correctness of such return or report to be made at the time of the next succeeding examination of such association, and shall thereupon transmit to such official body, or commission a complete statement of his findings respecting the accuracy of such returns or reports.

(d) **FEDERAL PROPERTY.**—No person shall be relieved from compliance with a State unemployment compensation law on the ground that services were performed on land or premises owned, held, or possessed by the United States, and any State shall have full jurisdiction and power to enforce the provisions of such law to the same extent and with the same effect as though such place were not owned, held, or possessed by the United States.

(e) **BONNEVILLE POWER ADMINISTRATOR.**—[Repealed.] <sup>24</sup>

(f) **AMERICAN VESSELS.**—The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Secretary of Labor under section 3304 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the same limitation, with respect to contributions required from such person and from the officers and members of the crew of such vessel, as is

<sup>24</sup> This subsection was repealed by P. L. 83-707. See p. 323 for subsec. 3305 (e) as it read prior to repeal.

imposed by the second sentence (other than clause (B) thereof) of subsection (b) with respect to contributions required from instrumentalities of the United States and from individuals in their employ.

(g) **VESSELS OPERATED BY GENERAL AGENTS OF UNITED STATES.**—The permission granted by subsection (f) shall apply in the same manner and under the same conditions (including the obligation to comply with all requirements of State unemployment compensation laws) to general agents of the Secretary of Commerce with respect to service performed on or after July 1, 1953, by officers and members of the crew on or in connection with American vessels—

(1) owned by or bareboat chartered to the United States, and

(2) whose business is conducted by such general agents.

As to any such vessel, the State permitted to require contributions on account of such service shall be the State to which the general agent would make contributions if the vessel were operated for his own account. Such general agents are designated, for this purpose, instrumentalities of the United States not wholly owned by it and shall not be exempt from the tax imposed by section 3301. The permission granted by this subsection is subject to the same conditions and limitations as are imposed in subsection (f), except that clause (B) of the second sentence of subsection (b) shall apply.

(h) **REQUIREMENT BY STATE OF CONTRIBUTIONS.**—Any State may, as to service performed on or after July 1, 1953, and on account of which contributions are made pursuant to subsection (g)—

(1) require contributions from persons performing such service under its unemployment compensation law or temporary disability insurance law administered in connection therewith, and

(2) require general agents of the Secretary of Commerce to make contributions under such temporary disability insurance law and to make such deductions from wages or remuneration as are required by such unemployment compensation or temporary disability insurance law.

(i) **GENERAL AGENT AS LEGAL ENTITY.**—Each general agent of the Secretary of Commerce making contributions pursuant to subsection (g) or (h) shall, for purposes of such subsections, be considered a legal entity in his capacity as an instrumentality of the United States, separate and distinct from his identity as a person employing individuals on his own account.

#### SEC. 3306. DEFINITIONS.

(a) **EMPLOYER.**—For purposes of this chapter, the term “employer” does not include any person unless on each of some 20 days during the taxable year, each day being in a different calendar week, the total number of individuals who were employed by him in employment for some portion of the day (whether or not at the same moment of time) was 4 or more.

(b) **WAGES.**—For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to \$3,000 with respect to employment has been paid to an individual by an employer during

any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to \$3,000 to such individual during such calendar year, any remuneration (other than remuneration referred to in succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

(A) retirement, or

(B) sickness or accident disability, or

(C) medical or hospitalization expenses in connection with sickness or accident disability, or

(D) death;

(3) any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401 (a) which is exempt from tax under section 501 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 (a) (3), (4), (5), and (6);

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 3101 (or the corresponding section of prior law), or

(B) of any payment required from an employee under a State unemployment compensation law;

(7) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(8) any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he did not work for the employer in the period for which such payment is made.

(c) **EMPLOYMENT.**—For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

(1) agricultural labor (as defined in subsection (k));

(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(3) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or

(B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter;

(4) service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;

(5) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(6) service performed in the employ of the United States Government or of an instrumentality of the United States which is—

(A) wholly owned by the United States, or

(B) exempt from the tax imposed by section 3301 by virtue of any other provision of law;

(7) service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing, which is wholly owned by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3301;

(8) service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(9) service performed by an individual as an employee or employee representative as defined in section 1 of the Railroad Unemployment Insurance Act (52 Stat. 1094, 1095; 45 U. S. C. 351);

(10) (A) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a) (other than an organization described in section 401 (a)) or under section 521, if—

(i) the remuneration for such service is less than \$50,

or

(ii) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association, or

(iii) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

(B) service performed in the employ of an agricultural or horticultural organization described in section 501 (c) (5) which is exempt from tax under section 501 (a);

(C) service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if—

(i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and

(ii) 85 percent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(D) service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if—



(i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and

(ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(E) service performed in the employ of a school, college, or university, not exempt from income tax under section 501 (a), if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(11) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) if the Secretary of State shall certify to the Secretary that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to a State law; and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to State law;

(14) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(15) (A) service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(16) service performed in the employ of an international organization; or

(17) service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the

catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except—

(A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and

(B) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States.

(d) INCLUDED AND EXCLUDED SERVICE.—For purposes of this chapter, if the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term “pay period” means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by subsection (c) (9).

(e) STATE AGENCY.—For purposes of this chapter, the term “State agency” means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(f) UNEMPLOYMENT FUND.—For purposes of this chapter, the term “unemployment fund” means a special fund, established under a State law and administered by a State agency, for the payment of compensation. Any sums standing to the account of the State agency in the Unemployment Trust Fund established by section 904 of the Social Security Act, as amended (49 Stat. 640; 52 Stat. 1104, 1105; 42 U. S. C. 1104), shall be deemed to be a part of the unemployment fund of the State, and no sums paid out of the Unemployment Trust Fund to such State agency shall cease to be a part of the unemployment fund of the State until expended by such State agency. An unemployment fund shall be deemed to be maintained during a taxable year only if throughout such year, or such portion of the year as the unemployment fund was in existence, no part of the moneys of such fund was expended for any purpose other than the payment of compensation (exclusive of expenses of administration) and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305 (b); except that—

(1) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration; and

(2) the amounts specified by section 903 (c) (2) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for adminis-

tration of its unemployment compensation law and public employment offices.

(g) **CONTRIBUTIONS.**—For purposes of this chapter, the term “contributions” means payments required by a State law to be made into an unemployment fund by any person on account of having individuals in his employ, to the extent that such payments are made by him without being deducted or deductible from the remuneration of individuals in his employ.

(h) **COMPENSATION.**—For purposes of this chapter, the term “compensation” means cash benefits payable to individuals with respect to their unemployment.

(i) **EMPLOYEE.**—For purposes of this chapter, the term “employee” includes an officer of a corporation, but such term does not include—

(1) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an independent contractor, or

(2) any individual (except an officer of a corporation) who is not an employee under such common law rules.

(j) **STATE.**—For purposes of this chapter, the term “State” includes Alaska, Hawaii, and the District of Columbia.

(k) **AGRICULTURAL LABOR.**—For purposes of this chapter, the term “agricultural labor” includes all service performed—

(1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) in connection with the production or harvesting of maple sirup or maple sugar or any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, § 3; 12 U. S. C. 1141j), or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; or

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(1) CERTAIN EMPLOYEES OF BONNEVILLE POWER ADMINISTRATOR.—  
[Repealed.]<sup>25</sup>

(m) AMERICAN VESSEL.—For purposes of this chapter, the term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

(n) VESSELS OPERATED BY GENERAL AGENTS OF UNITED STATES.—Notwithstanding the provisions of subsection (c) (6), service performed on or after July 1, 1953, by officers and members of the crew of a vessel which would otherwise be included as employment under subsection (c) shall not be excluded by reason of the fact that it is performed on or in connection with an American vessel—

(1) owned by or bareboat chartered to the United States and

(2) whose business is conducted by a general agent of the Secretary of Commerce.

For purposes of this chapter, each such general agent shall be considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account, and the officers and members of the crew of such an American vessel whose business is conducted by a general agent of the Secretary of Commerce shall be deemed to be performing services for such general agent rather than the United States. Each such general agent who in his capacity as such is an employer within the meaning of subsection (a) shall be subject to all the requirements imposed upon an employer under this chapter with respect to service which constitutes employment by reason of this subsection.

#### SEC. 3307. DEDUCTIONS AS CONSTRUCTIVE PAYMENTS.

Whenever under this chapter or any act of Congress or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

#### SEC. 3308. SHORT TITLE.

This chapter may be cited as the "Federal Unemployment Tax Act."

### CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES

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<sup>25</sup> This subsection was repealed by P. L. 83-767. See p. 324 for sec. 3308 (1) as it read prior to repeal.

**SEC. 3501. COLLECTION AND PAYMENT OF TAXES.**

The taxes imposed by this subtitle shall be collected by the Secretary or his delegate and shall be paid into the Treasury of the United States as internal-revenue collections.

**SEC. 3502. NONDEDUCTIBILITY OF TAXES IN COMPUTING TAXABLE INCOME.**

(a) The taxes imposed by section 3101 of chapter 21, and by sections 3201 and 3211 of chapter 22 shall not be allowed as a deduction to the taxpayer in computing taxable income under subtitle A.

(b) The tax deducted and withheld under chapter 24 shall not be allowed as a deduction either to the employer or to the recipient of the income in computing taxable income under subtitle A.

**SEC. 3503. ERRONEOUS PAYMENTS.**

Any tax paid under chapter 21 or 22 by a taxpayer with respect to any period with respect to which he is not liable to tax under such chapter shall be credited against the tax, if any, imposed by such other chapter upon the taxpayer, and the balance, if any, shall be refunded.

**SEC. 3504. ACTS TO BE PERFORMED BY AGENTS.**

In case a fiduciary, agent, or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of employees, employed by one or more employers, the Secretary or his delegate, under regulations prescribed by him, is authorized to designate such fiduciary, agent, or other person to perform such acts as are required of employers under this title<sup>26</sup> and as the Secretary or his delegate may specify. Except as may be otherwise prescribed by the Secretary or his delegate, all provisions of law (including penalties) applicable in respect of an employer shall be applicable to a fiduciary, agent, or other person so designated but, except as so provided, the employer for whom such fiduciary, agent, or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers.

**Subtitle F—Procedure and Administration****CHAPTER 61—INFORMATION AND RETURNS**

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<sup>26</sup> Sec. 71 of the Technical Amendments Act of 1958 changed "subtitle" to "title" effective with respect to remuneration paid after December 1954.

**SEC. 6001. NOTICE OR REGULATIONS REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.**

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

**SEC. 6011. GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST.**

(a) **GENERAL RULE.**—When required by regulations prescribed by the Secretary or his delegate any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary or his delegate. Every person required to make a return or statement shall include therein the information required by such forms or regulations.<sup>27</sup>

(b) **IDENTIFICATION OF TAXPAYER.**—The Secretary or his delegate is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

\* \* \* \* \*

**SEC. 6017. SELF-EMPLOYMENT TAX RETURNS.**

Every individual (other than a nonresident alien individual) having net earnings from self-employment of \$400 or more for the taxable year shall make a return with respect to the self-employment tax imposed by chapter 2. In the case of a husband and wife filing a joint return under section 6013, the tax imposed by chapter 2 shall not be computed on the aggregate income but shall be the sum of the taxes computed under such chapter on the separate self-employment income of each spouse.

\* \* \* \* \*

**SEC. 6020. RETURNS PREPARED FOR OR EXECUTED BY SECRETARY.**

(a) **PREPARATION OF RETURN BY SECRETARY.**—If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary or his delegate may prepare such return, which, being signed by such person, may be received by the Secretary or his delegate as the return of such person.

(b) **EXECUTION OF RETURN BY SECRETARY.**—

(1) **AUTHORITY OF SECRETARY TO EXECUTE RETURN.**—If any person fails to make any return (other than a declaration of estimated tax required under section 6015 or 6016) required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary or his delegate shall make such

<sup>27</sup> Secs. 6011, 6091, 6106, 6152, 6155, and 6161 have been compiled by the United States Department of Labor.

return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) **STATUS OF RETURNS.**—Any return so made and subscribed by the Secretary or his delegate shall be *prima facie* good and sufficient for all legal purposes.

\* \* \* \* \*

#### **SEC. 6051. RECEIPTS FOR EMPLOYEES.**

(a) **REQUIREMENT.**—Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

- (1) the name of such person,
- (2) the name of the employee (and his social security account number if wages as defined in section 3121 (a) have been paid),
- (3) the total amount of wages as defined in section 3401 (a),
- (4) the total amount deducted and withheld as tax under section 3402,
- (5) the total amount of wages as defined in section 3121 (a), and
- (6) the total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121 (a), computed in accordance with such section and section 3121 (i) (2).

(b) **SPECIAL RULE AS TO COMPENSATION OF MEMBERS OF ARMED FORCES.**—In the case of compensation paid for service as a member of the Armed Forces, the statement required by subsection (a) shall be furnished if any tax was withheld during the calendar year under section 3402, or if any of the compensation paid during such year is includible in gross income under chapter 1, or if during the calendar year any amount was required to be withheld as tax under section 3101. In lieu of the amount required to be shown by paragraph (3) of subsection (a), such statement shall show as wages paid during the calendar year the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401 (a)).

(c) **ADDITIONAL REQUIREMENTS.**—The statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary or his delegate may by regulations prescribe.

(d) **STATEMENTS TO CONSTITUTE INFORMATION RETURNS.**—A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary or his delegate

shall, when required by such regulations, be filed with the Secretary or his delegate.

\* \* \* \* \*

#### SEC. 6061. SIGNING OF RETURNS AND OTHER DOCUMENTS.

Except as otherwise provided by sections 6062 and 6063, any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary or his delegate.

\* \* \* \* \*

#### SEC. 6064. SIGNATURE PRESUMED AUTHENTIC.

The fact that an individual's name is signed to a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

#### SEC. 6065. VERIFICATION OF RETURNS.

(a) **PENALTIES OF PERJURY.**—Except as otherwise provided by the Secretary or his delegate, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(b) **OATH.**—The Secretary or his delegate may by regulations require that any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be verified by an oath. This subsection shall not apply to returns and declarations with respect to income taxes made by individuals.

\* \* \* \* \*

#### SEC. 6071. TIME FOR FILING RETURNS AND OTHER DOCUMENTS.

(a) **GENERAL RULE.**—When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the time for filing any return, statement, or other document required by this title or by regulations.

\* \* \* \* \*

#### SEC. 6072. TIME FOR FILING INCOME TAX RETURNS.

(a) **GENERAL RULE.**—In the case of returns under section 6012, 6013, 6017, or 6031 (relating to income tax under subtitle A), returns made on the basis of the calendar year shall be filed on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the fourth month following the close of the fiscal year, except as otherwise provided in the following subsections of this section.

\* \* \* \* \*

#### SEC. 6081. EXTENSION OF TIME FOR FILING RETURNS.

(a) **GENERAL RULE.**—The Secretary or his delegate may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this title or by regulations. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

\* \* \* \* \*

#### SEC. 6091. PLACE FOR FILING RETURNS OR OTHER DOCUMENTS.

(b) **TAX RETURNS.**—In the case of returns of tax required under authority of part II of this subchapter—



(1) **INDIVIDUALS.**—Returns (other than corporation returns) shall be made to the Secretary or his delegate in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

(2) **CORPORATIONS.**—Returns of corporations shall be made to the Secretary or his delegate in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.<sup>28</sup>

\* \* \* \* \*

#### SEC. 6101. PERIOD COVERED BY RETURNS OR OTHER DOCUMENTS.

When not otherwise provided for by this title, the Secretary or his delegate may by regulations prescribe the period for which, or the date as of which, any return, statement, or other document required by this title or by regulations, shall be made.

\* \* \* \* \*

#### SEC. 6106. PUBLICITY OF UNEMPLOYMENT TAX RETURNS.

Returns filed with respect to the tax imposed by chapter 23 shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns described in section 6103, except that paragraph (2) of subsections (a) and (b) of section 6103 and section 7213 (a) (2) shall not apply.

\* \* \* \* \*

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\* \* \* \* \*

#### SEC. 6151. TIME AND PLACE FOR PAYING TAX SHOWN ON RETURNS.

(a) **GENERAL RULE.**—Except as otherwise provided in this section, when a return of tax is required under this title or regulations, the person required to make such return shall, without assessment or notice and demand from the Secretary or his delegate, pay such tax to the principal internal revenue officer for the internal revenue district in which the return is required to be filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time for filing the return).

#### SEC. 6152. INSTALLMENT PAYMENTS.

(a) **PRIVILEGE TO ELECT TO MAKE INSTALLMENT PAYMENT.**—

(3) **EMPLOYERS SUBJECT TO UNEMPLOYMENT TAX.**—[Repealed.]<sup>29</sup>

<sup>28</sup> See footnote 27.

<sup>29</sup> This paragraph was repealed by P. L. 83-767 effective with respect to taxable years beginning after 1954. See p. 324 for sec. 6152 (a) (3) as it read prior to repeal.

**(b) DATES PRESCRIBED FOR PAYMENT OF INSTALLMENTS.—**

(1) **FOUR INSTALLMENTS.**—In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.

(2) **TWO INSTALLMENTS.**—In any case (other than payment of estimated income tax) in which the tax may be paid in two installments, the first installment shall be paid on the date prescribed for the payment of the tax, and the second installment shall be paid on or before 3 months after such date.<sup>30</sup>

\* \* \* \* \*

**SEC. 6155. PAYMENT ON NOTICE AND DEMAND.**

(a) **GENERAL RULE.**—Upon receipt of notice and demand from the Secretary or his delegate, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to tax, and assessable penalties) stated in such notice and demands.<sup>31</sup>

\* \* \* \* \*

**SEC. 6161. EXTENSION OF TIME FOR PAYING TAX.****(a) AMOUNT DETERMINED BY TAXPAYER ON RETURN.—**

(1) **GENERAL RULE.**—The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.<sup>32</sup>

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**SEC. 6205. SPECIAL RULES APPLICABLE TO CERTAIN EMPLOYMENT TAXES.****(a) ADJUSTMENT OF TAX.—**

(1) **GENERAL RULE.**—If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of wages or compensation, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary or his delegate may by regulations prescribe.

(2) **UNITED STATES AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes

<sup>30</sup> See footnote 27.

<sup>31</sup> See footnote 27.

<sup>32</sup> See footnote 27.

a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(b) **UNDERPAYMENTS.**—If less than the correct amount of tax imposed by section 8101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of wages or compensation and the underpayment cannot be adjusted under subsection (a) of this section, the amount of the underpayment shall be assessed and collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary or his delegate may by regulations prescribe.

\* \* \* \* \*

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### SEC. 6302. MODE OR TIME OF COLLECTION.

(a) **ESTABLISHMENT BY REGULATIONS.**—If the mode or time for collecting any tax is not provided for by this title, the Secretary or his delegate may establish the same by regulations.

(b) **DISCRETIONARY METHOD.**—Whether or not the method of collecting any tax imposed by chapters 21, 31, 32, 33, section 4481 of chapter 36, sections 4501 (a) or 4511 of chapter 37, or sections 4701 or 4721 of chapter 39 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary or his delegate, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) **USE OF GOVERNMENT DEPOSITARIES.**—The Secretary or his delegate may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the Secretary or his delegate.

\* \* \* \* \*

### SEC. 6313. FRACTIONAL PARTS OF A CENT.

In the payment of any tax imposed by this title not payable by stamp, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

### SEC. 6314. RECEIPT FOR TAXES.

(a) **GENERAL RULE.**—The Secretary or his delegate shall, upon request, give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no receipt shall be issued in lieu of a stamp representing a tax.

\* \* \* \* \*

**SEC. 6334. PROPERTY EXEMPT FROM LEVY**

(a) **ENUMERATION.**—There shall be exempt from levy—

\* \* \* \* \*

(4) **UNEMPLOYMENT BENEFITS.**—Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State or Territory, or of the District of Columbia or of the Commonwealth of Puerto Rico.<sup>33</sup>

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**SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN EMPLOYMENT TAXES.**

(a) **ADJUSTMENT OF TAX.**—

(1) **GENERAL RULE.**—If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary or his delegate may by regulations prescribe.

(2) **UNITED STATES AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(b) **OVERPAYMENTS OF CERTAIN EMPLOYMENT TAXES.**—If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of remuneration and the overpayment cannot be adjusted under subsection (a) of this section, the amount of the overpayment shall be refunded in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary or his delegate may by regulations prescribe.

(c) **SPECIAL REFUNDS.**—

(1) **IN GENERAL.**—If by reason of any employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed \$3,600, the employee shall be entitled (subject to the provisions of section 31 (b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$3,600 of such wages received; or if by reason of an employee receiving wages from more than one

<sup>33</sup> Sec. 406 of P. L. 85-840 added par. (4).

employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed \$4,200, or (B) during any calendar year after the calendar year 1958, the wages received by him during such year exceed \$4,800, the employee shall be entitled (subject to the provisions of section 31 (b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first \$4,800 of such wages received in such calendar year after 1958.<sup>34</sup>

(2) **APPLICABILITY IN CASE OF FEDERAL AND STATE EMPLOYEES AND EMPLOYEES OF CERTAIN FOREIGN CORPORATIONS.**—

(A) **FEDERAL EMPLOYEES.**—In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed \$3,600 for the calendar year 1951, 1952, 1953, or 1954, \$4,200 for the calendar year 1955, 1956, 1957, or 1958, or \$4,800 for any calendar year after 1958,<sup>35</sup> determined by each such head or agent as constituting wages paid to an employee.

(B) **STATE EMPLOYEES.**—For purposes of this subsection, in the case of remuneration received during any calendar year, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term "tax" or "tax imposed by section 3101" includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) **EMPLOYEES OF CERTAIN FOREIGN CORPORATIONS.**—For purposes of paragraph (1) of this subsection, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 3121 (1) as would be

<sup>34</sup> Sec. 402 (d) (1) of P. L. 85-840 amended par. (1) in its entirety effective with respect to remuneration paid after 1958. For sec. 6413 (c) (1) as it read prior to amendment, see p. 829.

<sup>35</sup> Sec. 402 (d) (2) of P. L. 85-840 substituted "\$4,200 for the calendar year 1955, 1956, 1957 or 1958, or \$4,800 for any calendar year after 1958" in place of "\$4,200 for any calendar year after 1954," effective with respect to remuneration paid after 1958.

wages if such services constituted employment; the term "employer" includes any domestic corporation which has entered into an agreement pursuant to section 3121 (1); the term "tax" or "tax imposed by section 3101," includes, in the case of services covered by an agreement entered into pursuant to section 3121 (1), an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121 (1) has been paid to the Secretary or his delegate.<sup>36</sup>

(d) **REFUND OR CREDIT OF FEDERAL UNEMPLOYMENT TAX.**—Any credit allowable under section 3302, to the extent not previously allowed, shall be considered an overpayment, but no interest shall be allowed, or paid with respect to such overpayment.

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### SEC. 6501. LIMITATIONS ON ASSESSMENT AND COLLECTION.

(a) **GENERAL RULE.**—Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid,<sup>37</sup> and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

#### (b) TIME RETURN DEEMED FILED.—

(1) **EARLY RETURN.**—For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 21 or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) **RETURN OF CERTAIN EMPLOYMENT TAXES.**—For purposes of this section, if a return of tax imposed by chapter 21 or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(3) **RETURN EXECUTED BY SECRETARY.**—Notwithstanding the provisions of paragraph (2) of section 6020 (b), the execution of a return by the Secretary or his delegate pursuant to the authority conferred by such section shall not start the running of the period of limitations on assessment and collection.

<sup>36</sup> See p. 323 for provisions relating to special refunds under the Internal Revenue Code of 1939.

<sup>37</sup> Sec. 165 (a) of the Technical Amendments Act of 1958, substituted the language beginning with "at any time" and through "was paid" in place of "within 3 years after such tax became due," effective January 1, 1959.

## (c) EXCEPTIONS.—

(1) FALSE RETURN.—In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(2) WILLFUL ATTEMPT TO EVADE TAX.—In the case of a willful attempt in any manner to defeat or evade tax imposed by this title (other than tax imposed by subtitle A or B), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) NO RETURN.—In the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(4) EXTENSION BY AGREEMENT.—Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this title, except the estate tax provided in chapter 11, both the Secretary or his delegate and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

\* \* \* \* \*

## SEC. 6502. COLLECTION AFTER ASSESSMENT.

(a) LENGTH OF PERIOD.—Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun—

(1) within 6 years after the assessment of the tax, or

(2) prior to the expiration of any period for collection agreed upon in writing by the Secretary or his delegate and the taxpayer before the expiration of such 6-year period (or, if there is a release of levy under section 6343 after such 6-year period, then before such release).

The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) DATE WHEN LEVY IS CONSIDERED MADE.—The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335 (a) is given.

\* \* \* \* \*

## SEC. 6511. LIMITATIONS ON CREDIT OR REFUND.

(a) PERIOD OF LIMITATION ON FILING CLAIM.—Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed<sup>28</sup> or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund

<sup>28</sup> Sec. 82 (a) of the Technical Amendments Act of 1958 substituted "was filed" in place of "was required to be filed (determined without regard to any extension of time)," effective August 17, 1954.

of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

(b) **LIMITATIONS ON ALLOWANCE OF CREDITS AND REFUNDS.—**

(1) **FILING OF CLAIM WITHIN PRESCRIBED PERIOD.**—No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in subsection (a) for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

(2) **LIMIT ON AMOUNT OF CREDIT OR REFUND.—**

(A) **LIMIT WHERE CLAIM FILED WITHIN 3-YEAR PERIOD.**<sup>39</sup>—If the claim was filed by the taxpayer during the 3-year prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period<sup>40</sup> immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.<sup>41</sup> If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(B) **LIMIT WHERE CLAIM NOT FILED WITHIN 3-YEAR PERIOD.**<sup>42</sup>—If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim.

(C) **LIMIT IF NO CLAIM FILED.**—If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under subparagraph (A) or (B), as the case may be, if claim was filed on the date the credit or refund is allowed.

\* \* \* \* \*

**SEC. 6513. TIME RETURN DEEMED FILED AND TAX CONSIDERED PAID.**

\* \* \* \* \*

(c) **RETURN AND PAYMENT OF SOCIAL SECURITY TAXES AND INCOME TAX WITHHOLDING.**—Notwithstanding subsection (a), for purposes of section 6511 with respect to any tax imposed by chapter 21 or 24—

(1) If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April 15 of the succeeding calendar year, such tax shall be considered paid on April 15 of such succeeding calendar year.

\* \* \* \* \*

<sup>39</sup> Sec. 82 (b) of the Technical Amendments Act of 1958 substituted the present heading in the place of the former heading which read as follows: "Limit to amount paid within 3-years" effective August 17, 1954.

<sup>40</sup> Sec. 82 (b) of the Technical Amendments Act of 1958 substituted the word "period" in place of "3-years," effective August 17, 1954.

<sup>41</sup> Sec. 82 (b) of the Technical Amendments Act of 1958 added the language beginning with "equal to 3 years" through the end of the sentence, effective August 17, 1954.

<sup>42</sup> Sec. 82 (c) of the Technical Amendments Act of 1958 substituted the present heading for the former heading which read "Limit to amount paid within 2 years," effective August 17, 1954.



# SEC. 6521. MITIGATION OF EFFECT OF LIMITATION IN CASE OF RELATED TAXES UNDER DIFFERENT CHAPTERS.

(a) **SELF-EMPLOYMENT TAX AND TAX ON WAGES.**—In the case of the tax imposed by chapter 2 (relating to tax on self-employment income) and the tax imposed by section 3101 (relating to tax on employees under the Federal Insurance Contributions Act)—

(1) If an amount is erroneously treated as self-employment income, or if an amount is erroneously treated as wages, and

(2) If the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

(3) If at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 7122, relating to compromises), then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 7122, relating to compromises).

(b) **DEFINITIONS.**—For purposes of subsection (a), the terms “self-employment income” and “wages” shall have the same meaning as when used in section 1402 (b).

## CHAPTER 67—INTEREST

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# SEC. 6601. INTEREST ON UNDERPAYMENT, NONPAYMENT, OR EXTENSIONS OF TIME FOR PAYMENT, OF TAX.

(a) **GENERAL RULE.**—If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at the rate of 6 percent per annum shall be paid for the period from such last date to the date paid.

\* \* \* \* \*

(c) **LAST DATE PRESCRIBED FOR PAYMENT.**—For purposes of this section, the last date prescribed for payment of the tax shall be determined under chapter 62 with the application of the following rules:

(1) **EXTENSIONS OF TIME DISREGARDED.**—The last date prescribed for payment shall be determined without regard to any extension of time for payment.

(2) **INSTALLMENT PAYMENTS.**—In the case of an election under section 6152 (a) to pay the tax in installments—

(A) The date prescribed for payment of each installment of the tax shown on the return shall be determined under section 6152 (b), and

(B) The last date prescribed for payment of the first installment shall be deemed the last date prescribed for payment of any portion of the tax not shown on the return.

(3) **JEOPARDY.**—The last date prescribed for payment shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy (as provided in chapter 70), prior to the last date otherwise prescribed for such payment.

(4) **LAST DATE FOR PAYMENT NOT OTHERWISE PRESCRIBED.**—In the case of taxes payable by stamp and in all other cases in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for tax arises (and in no event shall be later than the date notice and demand for the tax is made by the Secretary or his delegate).

\* \* \* \* \*

(f) **APPLICABLE RULES.**—Except as otherwise provided in this title—

(1) **INTEREST TREATED AS TAX.**—Interest prescribed under this section on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes. Any reference in this title (except subchapter B of chapter 63, relating to deficiency procedures) to any tax imposed by this title shall be deemed also to refer to interest imposed by this section on such tax.

(2) **NO INTEREST ON INTEREST.**—No interest under this section shall be imposed on the interest provided by this section.

(3) **INTEREST ON PENALTIES, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.**—Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax only if such assessable penalty, additional amount, or addition to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(4) **PAYMENTS MADE WITHIN 10 DAYS AFTER NOTICE AND DEMAND.**—If notice and demand is made for payment of any amount, and if such amount is paid within 10 days after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

## CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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### SEC. 6651. FAILURE TO FILE TAX RETURN.

(a) **ADDITION TO THE TAX.**—In case of failure to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall

be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

(b) **PENALTY IMPOSED ON NET AMOUNT DUE.**—For purposes of subsection (a), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

\* \* \* \* \*

#### SEC. 6659. APPLICABLE RULES.

(a) **ADDITIONS TREATED AS TAX.**—Except as otherwise provided in this title—

(1) The additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes;

(2) Any reference in this title to “tax” imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

(b) **ADDITIONS TO TAX FOR FAILURE TO FILE RETURN OR PAY TAX.**—Any addition under section 6651 or section 6653 to a tax imposed by another subtitle of this title shall be considered a part of such tax for the purpose of applying the provisions of this title relating to the assessment and collection of such tax (including the provisions of subchapter B of chapter 63, relating to deficiency procedures for income, estate, and gift taxes).

\* \* \* \* \*

#### SEC. 6674. FRAUDULENT STATEMENT OR FAILURE TO FURNISH STATEMENT TO EMPLOYEE.

In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of \$50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

### CHAPTER 69—GENERAL PROVISIONS RELATING TO STAMPS

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#### SEC. 6802. SUPPLY AND DISTRIBUTION.

The Secretary or his delegate shall furnish, without prepayment, to—

(1) **POSTMASTER GENERAL.**—The Postmaster General a suitable quantity of adhesive stamps (other than the stamps on playing cards), coupons, tickets, or such other devices as may

be prescribed by the Secretary or his delegate pursuant to section 6302 (b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) are located in county seats, or

(B) are certified by the Secretary to the Postmaster General as necessary;

(2) **DESIGNATED DEPOSITORY OF THE UNITED STATES.**—Any designated depository of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depository;

(3) **STATE AGENTS.**—Any person who is—

(A) duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and

(B) designated by the Secretary or his delegate for the purpose,

a suitable quantity of such adhesive stamps as are required by section 4301, to be kept on sale by such person.

#### SEC. 6803. ACCOUNTING AND SAFEGUARDING.

(a) **THE POSTMASTER GENERAL.**—

(1) **BOND AND ACCOUNTING.**—The Postmaster General may require each postmaster under paragraph (1) of section 6802 to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe.

(2) **DEPOSIT OF RECEIPTS.**—The Postmaster General shall at least once a month transfer to the Treasury as internal revenue collections all receipts so deposited.

(b) **DEPOSITARIES AND STATE AGENTS.**—

(1) **BOND.**—In cases coming within the provisions of paragraph

(2) or (3) of section 6802, the Secretary or his delegate may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary or his delegate, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

(2) **REGULATIONS.**—The Secretary or his delegate may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraphs (2) and (3) of section 6802.

### CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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**SEC. 7204. FRAUDULENT STATEMENT OR FAILURE TO MAKE STATEMENT TO EMPLOYEES.**

In lieu of any other penalty provided by law (except the penalty provided by section 6674) any person required under the provisions of section 6051 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall, for each such offense, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

\* \* \* \* \*

**SEC. 7208. OFFENSES RELATING TO STAMPS.**

Any person who—

(1) **COUNTERFEITING.**—With intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed under authority of this title for the collection or payment of any tax imposed by this title, or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device;

\* \* \* \* \*

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

\* \* \* \* \*

**SEC. 7209. UNAUTHORIZED USE OR SALE OF STAMPS.**

Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Secretary or his delegate under this title for the collection or payment of any tax imposed by this title, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 6 months, or both.

\* \* \* \* \*

**CHAPTER 77—MISCELLANEOUS PROVISIONS**

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**SEC. 7509. EXPENDITURES INCURRED BY THE POST OFFICE DEPARTMENT.**

The Postmaster General or his delegate shall at least once a month transfer to the Treasury of the United States, together with the receipts required to be deposited under section 6803 (a), a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties, if any, imposed upon such Department with respect to chapter 21, relating to the tax under the Federal Insurance Contributions Act, and the Secretary or his delegate shall be authorized and directed to advance from time to time to the credit of the Post Office Department, from appropriations made for the collection of the taxes imposed by chapter

21, such sums as may be required for such additional expenditures incurred by the Post Office Department.

\* \* \* \* \*

## CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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### SEC. 7651. ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.

Except as otherwise provided in this subchapter and in sections 4705 (b), 4735, and 4762 (relating to taxes on narcotic drugs and marihuana), and except as otherwise provided in section 28 (a) of the Revised Organic Act of the Virgin Islands and section 30 of the Organic Act of Guam (relating to the covering of the proceeds of certain taxes into the treasuries of the Virgin Islands and Guam, respectively)—

(1) **APPLICABILITY OF ADMINISTRATIVE PROVISIONS.**—All provisions of the laws of the United States applicable to the assessment and collection of any tax imposed by this title or of any other liability arising under this title (including penalties) shall, in respect of such tax or liability, extend to and be applicable in any possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term “United States” when used in a geographical sense included such possession.

(2) **TAX IMPOSED IN POSSESSION.**—In the case of any tax which is imposed by this title in any possession of the United States—

(A) **INTERNAL REVENUE COLLECTIONS.**—Such tax shall be collected under the direction of the Secretary or his delegate, and shall be paid into the Treasury of the United States as internal revenue collections; and

(B) **APPLICABLE LAWS.**—All provisions of the laws of the United States applicable to the administration, collection, and enforcement of such tax (including penalties) shall, in respect of such tax, extend to and be applicable in such possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term “United States” when used in a geographical sense included such possession.

(3) **OTHER LAWS RELATING TO POSSESSIONS.**—This section shall apply notwithstanding any other provision of law relating to any possession of the United States.

(4) **CANAL ZONE.**—For purposes of this section, the term “possession of the United States” includes the Canal Zone.

(5) **VIRGIN ISLANDS.**—

(A) For purposes of this section, the reference in section 28 (a) of the Revised Organic Act of the Virgin Islands to “any tax specified in section 3811 of the Internal Revenue Code” shall be deemed to refer to any tax imposed by chapter 2 or by chapter 21.

(B) For purposes of this title, section 28 (a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section had been enacted subsequent to the enactment of this title.

**SEC. 7655. CROSS REFERENCES.**

**(a) IMPOSITION OF TAX IN POSSESSIONS.—**

For provisions imposing tax in possessions, see—

- (1) Chapter 2, relating to self-employment tax;
- (2) Chapter 21, relating to the tax under the Federal Insurance Contributions Act;
- (3) Parts I and III of subchapter A of chapter 39, relating to taxes in respect of narcotic drugs;
- (4) Parts II and III of subchapter A of chapter 39, relating to taxes in respect of marihuana;
- (5) Subchapter A of chapter 37, relating to tax on sugar.<sup>43</sup>

**(b) OTHER PROVISIONS.—**

For other provisions relating to possessions of the United States, see—

- (1) Section 933, relating to income tax on residents of Puerto Rico;
- (2) Section 6418 (b), relating to exportation of sugar to Puerto Rico.

**CHAPTER 79—DEFINITIONS <sup>44</sup>**

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**SEC. 7701. DEFINITIONS.**

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(3) CORPORATION.—The term “corporation” includes associations, joint-stock companies, and insurance companies.

(4) DOMESTIC.—The term “domestic” when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

**CHAPTER 80—GENERAL RULES**

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**SEC. 7805. RULES AND REGULATIONS.**

(a) AUTHORIZATION.—Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(c) PREPARATION AND DISTRIBUTION OF REGULATIONS, FORMS, STAMPS, AND OTHER MATTERS.—The Secretary or his delegate shall

<sup>43</sup> Sec. 204 (19) of the Excise Tax Technical Changes Act of 1958 deleted former par. (5) and redesignated former par. (6) as par. (5) effective September 3, 1958. Former par. (5) read as follows: “(5) Chapter 51, relating to alcohol taxes.”

<sup>44</sup> This chapter has been compiled by the United States Department of Labor.

prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.<sup>45</sup>

SEC. 7851. APPLICABILITY OF REVENUE LAWS.

(a) GENERAL RULES.—Except as otherwise provided in any section of this title—

(1) SUBTITLE A.—

(A) Chapters 1, 2, 4, and 6 of this title shall apply only with respect to taxable years beginning after December 31, 1953, and ending after the date of enactment of this title, and with respect to such taxable years, chapters 1 (except sections 143 and 144) and 2, and section 3801, of the Internal Revenue Code of 1939 are hereby repealed.

(C) Any provision of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953), or in terms of taxable years ending after a specific date (occurring after December 31, 1953), shall apply to taxable years ending after such specific date. Each such provision shall, in the case of a taxable year subject to the Internal Revenue Code of 1939, be deemed to be included in the Internal Revenue Code of 1939, but shall be applicable only to taxable years ending after such specific date. The provisions of the Internal Revenue Code of 1939 superseded by provisions of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953) shall be deemed to be included in subtitle A of this title, but shall be applicable only to the period prior to the taking effect of the corresponding provision of subtitle A.

(3) SUBTITLE C.—Subtitle C of this title shall apply only with respect to remuneration paid after December 31, 1954, except that chapter 22 of such subtitle shall apply only with respect to remuneration paid after December 31, 1954, which is for services performed after such date. Chapter 9 of the Internal Revenue Code of 1939 is hereby repealed with respect to remuneration paid after December 31, 1954, except that subchapter B of such chapter (and subchapter E of such chapter to the extent it relates to subchapter B) shall remain in force and effect with respect to remuneration paid after December 31, 1954, for services performed on or before such date.

(e) REFERENCE TO OTHER PROVISIONS.—For the purpose of applying the Internal Revenue Code of 1939 or the Internal Revenue Code of 1954 to any period, any reference in either such code to another provision of the Internal Revenue Code of 1939 or the Internal Revenue Code of 1954 which is not then applicable to such period shall be deemed a reference to the corresponding provision of the other code which is then applicable to such period.

<sup>45</sup> This subsection has been compiled by the United States Department of Labor.



## SEC. 7852. OTHER APPLICABLE RULES.

\* \* \* \* \*

(b) **REFERENCE IN OTHER LAWS TO INTERNAL REVENUE CODE OF 1939.**—Any reference in any other law of the United States or in any Executive order to any provision of the Internal Revenue Code of 1939 shall, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, be deemed also to refer to the corresponding provision of this title.

## EXCERPT FROM INTERNAL REVENUE CODE OF 1939

## SEC. 1401. DEDUCTION OF TAX FROM WAGES.

(d) **SPECIAL REFUNDS.**—

(3) **WAGES RECEIVED AFTER 1950.**—If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1950, the wages received by him during such year exceed \$3,600, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages (whether or not paid to the collector), which exceeds the tax with respect to the first \$3,600 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received or, in the case of any agreement (or modification thereof) pursuant to section 218 of the Social Security Act which is effective as of a date more than two years prior to the date such agreement (or modification) was agreed to, within two years after the calendar year in which such agreement (or modification) was agreed to by the State and the Secretary of Health, Education, and Welfare. No interest shall be allowed or paid with respect to any such refund.<sup>49</sup>

**PRIOR PROVISIONS OF INTERNAL REVENUE CODE  
OF 1954**

**EXCERPT FROM INTERNAL REVENUE CODE OF 1954  
PRIOR TO 1954 AMENDMENT (P. L. 83-767)**

## SEC. 3305. APPLICABILITY OF STATE LAW \* \* \*

(e) **BONNEVILLE POWER ADMINISTRATOR.**—The legislature of any State may, with respect to service performed after December 31, 1945, and before January 1, 1955, by a laborer, mechanic, or workman, in

<sup>49</sup> The concluding portion of the second sentence, after the word "received" was added by sec. 202 (a) (2) of the 1954 Amendments, effective, pursuant to subsection (d) of such section as of the date of enactment of the original sec. 1401 (d) (3) by the 1950 Amendments.

connection with construction work or the operation and maintenance of electrical facilities, as an employee performing service for the Bonneville Power Administrator, require the Administrator, who for purposes of this subsection is designated an instrumentality of the United States, and any such employee, to make contributions to an unemployment fund under a State unemployment compensation law approved by the Secretary of Labor under section 3304 and to comply otherwise with such law. Such permission is subject to the conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States. The Bonneville Power Administrator is authorized and directed to comply with the provisions of any applicable State unemployment compensation law on behalf of the United States as the employer of individuals whose service constitutes employment under such law by reason of this subsection.

**SEC. 3306. DEFINITIONS \* \* \***

(1) **CERTAIN EMPLOYEES OF BONNEVILLE POWER ADMINISTRATOR.**—For the purposes of this chapter—

(1) The term "employment" shall include such service as is determined by the Bonneville Power Administrator to be performed after December 31, 1945, by a laborer, mechanic, or workman, in connection with construction work or the operation and maintenance of electrical facilities, as an employee performing service for the Administrator.

(2) The term "wages" means, with respect to service which constitutes employment by reason of this subsection, such amount of remuneration as is determined (subject to the provisions of this section) by the Administrator to be paid for such service.

The Administrator is authorized and directed to comply with the provisions of the internal revenue laws on behalf of the United States as the employer of individuals whose service constitutes employment by reason of this subsection.

\* \* \* \* \*

**CHAPTER 62—TIME AND PLACE FOR PAYING TAX**

**SEC. 6152. INSTALLMENT PAYMENTS.**

(a) **PRIVILEGE TO ELECT TO MAKE INSTALLMENT PAYMENTS.**—

(3) **EMPLOYERS SUBJECT TO UNEMPLOYMENT TAX.**—An employer subject to the tax imposed by section 3301 may elect to pay such tax in four equal installments.

(b) **DATES PRESCRIBED FOR PAYMENT OF INSTALLMENTS.**—

(1) **FOUR INSTALLMENTS.**—In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.

(2) **TWO INSTALLMENTS.**—In any case (other than payment of estimated income tax) in which the tax may be paid in two installments, the first installment shall be paid on the date prescribed

for the payment of the tax, and the second installment shall be paid on or before 3 months after such date.

\* \* \* \* \*

## EXCERPTS FROM INTERNAL REVENUE CODE OF 1954 PRIOR TO SOCIAL SECURITY AMENDMENTS OF 1956

### CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

\* \* \* \* \*

#### SEC. 1401. RATE OF TAX.

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) in the case of any taxable year beginning before January 1, 1960, the tax shall be equal to 3 percent of the amount of the self-employment income for such taxable year;

(2) in the case of any taxable year beginning after December 31, 1959, and before January 1, 1965, the tax shall be equal to 3¾ percent of the amount of the self-employment income for such taxable year;

(3) in the case of any taxable year beginning after December 31, 1964, and before January 1, 1970, the tax shall be equal to 4½ percent of the amount of the self-employment income for such taxable year;

(4) in the case of any taxable year beginning after December 31, 1969, and before January 1, 1975, the tax shall be equal to 5¼ percent of the amount of the self-employment income for such taxable year;

(5) in the case of any taxable year beginning after December 31, 1974, the tax shall be equal to 6 percent of the amount of the self-employment income for such taxable year.

#### SEC. 1402. DEFINITIONS.

##### (a) NET EARNINGS FROM SELF-EMPLOYMENT.— \* \* \*

(8) \* \* \* If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual who reports his income on a cash receipts and disbursements basis, and in which, if it were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121 (g), (i) if the gross income derived from such trade or business by such individual is not more than \$1,800, the net earnings, from self-employment derived by him therefrom may, at his option, be deemed to be 50 percent of such gross income in lieu of his net earnings from self-employment from such trade or business computed as provided under the preceding provisions of this subsection, or (ii) if the gross income derived from such trade or business by such individual is more than \$1,800 and the net

earnings from self-employment derived by him therefrom, as computed under the preceding provisions of this subsection, are less than \$900, such net earnings may instead, at the option of such individual, be deemed to be \$900. For the purpose of the preceding sentence, gross income derived from such trade or business shall mean the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the preceding provisions of this subsection.

## CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

### SUBCHAPTER A—TAX ON EMPLOYEES

\* \* \* \* \*

#### SEC. 3101. RATE OF TAX.

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121 (a)) received by him with respect to employment (as defined in section 3121 (b))—

(1) with respect to wages received during the calendar years 1955 to 1959, both inclusive, the rate shall be 2 percent;

(2) with respect to wages received during the calendar years 1960 to 1964, both inclusive, the rate shall be 2½ percent;

(3) with respect to wages received during the calendar years 1965 to 1969, both inclusive, the rate shall be 3 percent;

(4) with respect to wages received during the calendar years 1970 to 1974, both inclusive, the rate shall be 3½ percent;

(5) with respect to wages received after December 31, 1974, the rate shall be 4 percent.<sup>47</sup>

### SUBCHAPTER B—TAX ON EMPLOYERS

\* \* \* \* \*

#### SEC. 3111. RATE OF TAX.

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121 (a)) paid by him with respect to employment (as defined in section 3121 (b))—

(1) with respect to wages paid during the calendar years 1955 to 1959, both inclusive, the rate shall be 2 percent;

(2) with respect to wages paid during the calendar years 1960 to 1964, both inclusive, the rate shall be 2½ percent;

(3) with respect to wages paid during the calendar years 1965 to 1969, both inclusive, the rate shall be 3 percent;

(4) with respect to wages paid during the calendar years 1970 to 1974, both inclusive, the rate shall be 3½ percent;

(5) with respect to wages paid after December 31, 1974, the rate shall be 4 percent.<sup>48</sup>

<sup>47</sup> Under sec. 1400 of the Internal Revenue Code of 1939 the rate for years 1939 to 1947 was 1 percent; for the years 1950 to 1953, it was 1½ percent; for 1954 it was 2 percent.

<sup>48</sup> See footnote 47.

# EXCERPTS FROM INTERNAL REVENUE CODE OF 1954 PRIOR TO SOCIAL SECURITY AMENDMENTS OF 1957

## CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

### SEC. 1402. DEFINITIONS.

#### (a) NET EARNINGS FROM SELF-EMPLOYMENT. \* \* \*

##### (8) an individual who is—

(A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order; and

(B) a citizen of the United States performing service described in subsection (c) (4) as an employee of an American employer (as defined in section 3121 (h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States.<sup>49</sup>

shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States).

# EXCERPTS FROM INTERNAL REVENUE CODE OF 1954 PRIOR TO SOCIAL SECURITY AMENDMENTS OF 1958

### SEC. 1401. RATE OF TAX.

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) in the case of any taxable year beginning after December 31, 1956, and before January 1, 1960, the tax shall be equal to 3½ percent of the amount of the self-employment income for such taxable year;

(2) in the case of any taxable year beginning after December 31, 1959, and before January 1, 1965, the tax shall be equal to 4½ percent of the amount of the self-employment income for such taxable year;

(3) in the case of any taxable year beginning after December 31, 1964, and before January 1, 1970, the tax shall be equal to 4⅞ percent of the amount of the self-employment income for such taxable year;

(4) in the case of any taxable year beginning after December 31, 1969, and before January 1, 1975, the tax shall be equal to 5½ percent of the amount of the self-employment income for such taxable year; and

(5) in the case of any taxable year beginning after December 31, 1974, the tax shall be equal to 6¾ percent of the amount of the self-employment income for such taxable year.

<sup>49</sup> Sec. 201 (g) of the Social Security Amendments of 1956 amended subpar. (B) by adding thereto the following:

"or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States," effective with respect to taxable years ending after 1956 except as provided in sec. 201 (m) (2) (B)-(F) of the Social Security Amendments of 1956. For sec. 201 (m) (2) (B)-(F) of the Social Security Amendments of 1956, see p. 184.

**SEC. 3101. RATE OF TAX.**

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121 (a)) received by him with respect to employment (as defined in section 3121 (b))—

- (1) with respect to wages received during the calendar years 1957 to 1959, both inclusive, the rate shall be  $2\frac{1}{4}$  percent;
- (2) with respect to wages received during the calendar years 1960 to 1964, both inclusive, the rate shall be  $2\frac{3}{4}$  percent;
- (3) with respect to wages received during the calendar years 1965 to 1969, both inclusive, the rate shall be  $3\frac{1}{4}$  percent;
- (4) with respect to wages received during the calendar years 1970 to 1974, both inclusive, the rate shall be  $3\frac{3}{4}$  percent; and
- (5) with respect to wages received after December 31, 1974, the rate shall be  $4\frac{1}{4}$  percent.<sup>50</sup>

\* \* \* \* \*

**SEC. 3111. RATE OF TAX.**

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121 (a)) paid by him with respect to employment (as defined in section 3121 (b))—

- (1) with respect to wages paid during the calendar years 1957 to 1959, both inclusive, the rate shall be  $2\frac{1}{4}$  percent;
- (2) with respect to wages paid during the calendar years 1960 to 1964, both inclusive, the rate shall be  $2\frac{3}{4}$  percent;
- (3) with respect to wages paid during the calendar years 1965 to 1969, both inclusive, the rate shall be  $3\frac{1}{4}$  percent;
- (4) with respect to wages paid during the calendar years 1970 to 1974, both inclusive, the rate shall be  $3\frac{3}{4}$  percent; and
- (5) with respect to wages paid after December 31, 1974, the rate shall be  $4\frac{1}{4}$  percent.<sup>51</sup>

\* \* \* \* \*

**SEC. 3121. DEFINITIONS.**

(b) **EMPLOYMENT.**—For purposes of this Chapter, the term “employment” \* \* \* shall not include—

- (1) (A) service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended (46 Stat. 1550 § 3; U. S. C. 1141j);

\* \* \* \* \*

(k) **EXEMPTION OF RELIGIOUS, CHARITABLE, AND CERTAIN OTHER ORGANIZATIONS.**—

- (1) **WAIVER OF EXEMPTION BY ORGANIZATION.**—An organization described in section 501 (c) (3) which is exempt from income tax under section 501 (a) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that it desires to have

<sup>50</sup> The Social Security Amendments of 1956, sec. 202 (b), substituted the above pars. (1)–(5) for former pars. (1)–(5) effective with respect to remuneration paid after December 31, 1956. For these pars. as they read prior to the 1956 Amendments see p. 326.

<sup>51</sup> The Social Security Amendments of 1956, sec. 202 (c), substituted the above pars. (1)–(5) for former pars. (1)–(5) effective with respect to remuneration paid after December 31, 1956. For these pars. as they read prior to the 1956 Amendments, see p. 326.

the insurance system established by title II of the Social Security Act extended to service performed by its employees and that at least two-thirds of its employees concur in the filing of the certificate. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee who concurs in the filing of the certificate. Such list may be amended at any time prior to the expiration of the twenty-fourth month following the first calendar quarter for which the certificate is in effect, or at any time prior to January 1, 1959, whichever is the later,<sup>52</sup> by filing with the prescribed official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter. The certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210 (a) (8) (B) of the Social Security Act) for the period beginning with the first day of the calendar quarter in which such certificate is filed or the first day of the succeeding calendar quarter, as may be specified in the certificate,<sup>53</sup> except that, in the case of service performed by an individual whose name appears on a supplemental list filed after the first month following the first calendar quarter for which the certificate is in effect, the certificate shall be in effect, for purposes of such subsection (b) (8) and for purposes of section 210 (a) (8) of the Social Security Act, only with respect to service performed by such individual after the calendar quarter in which such supplemental list is filed. The period for which a certificate filed pursuant to this subsection or the corresponding subsection of prior law is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving 2 years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than 8 years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this chapter.

\* \* \* \* \*

#### SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN EMPLOYEE TAXES \* \* \*

##### (c) SPECIAL REFUNDS.—

(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955 the wages

<sup>52</sup> Sec. 201 (k) of the Social Security Amendments of 1956 amended par. (1), the third sentence, by adding "or at any time prior to January 1, 1959, whichever is the later."

<sup>53</sup> Sec. 201 (1) of the Social Security Amendments of 1956 amended par. (1), the fifth sentence, by deleting "the first day following the close of the calendar quarter in which such certificate is filed," and substituting therefor "the first day of the calendar quarter in which such certificate is filed or the first day of the succeeding calendar quarter, as may be specified in the certificate," effective with respect to certificates filed after 1956 under sec. 8121 (k) of the Internal Revenue Code of 1954.

received by him during such year exceed \$3,600, the employee shall be entitled (subject to the provisions of section 31 (b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1954, the wages received by him during such year exceed \$4,200, the employee shall be entitled (subject to the provisions of section 31 (b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$4,200 of such wages received.



## PROVISIONS OF OTHER LAWS RELATING TO THE SOCIAL SECURITY ACT

### REORGANIZATION PLAN NO. 2 OF 1946<sup>1</sup>

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 16, 1946, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945

#### FEDERAL SECURITY AGENCY<sup>2</sup> AND DEPARTMENT OF LABOR

SECTION 1. *Children's Bureau.*—(a) The Children's Bureau in the Department of Labor, exclusive of its Industrial Division, is transferred to the Federal Security Agency. All functions of the Children's Bureau and of the Chief of the Children's Bureau except those transferred by subsection (b) of this section, all functions of the Secretary of Labor under title V of the Social Security Act (49 Stat. 620, ch. 531), as amended, and all other functions of the Secretary of Labor relating to the foregoing functions are transferred to the Federal Security Administrator, and shall be performed by him or under his direction and control by such officers and employees of the Federal Security Agency as he shall designate, except that the functions authorized by section 2 of the act of April 9, 1912 (37 Stat. 79, ch. 73), as amended, and such other functions of the Federal Security Agency as the Administrator may designate, shall be administered, under his direction and control, through the Children's Bureau.

(b) The functions of the Children's Bureau and of the Chief of the Children's Bureau under the Fair Labor Standards Act of 1938 (52 Stat. 1060, ch. 676), as amended, are transferred to the Secretary of Labor and shall be performed under his direction and control by such officers and employees of the Department of Labor as he shall designate.

\* \* \* \* \*

SEC. 4. *Social Security Board.*—The functions of the Social Security Board in the Federal Security Agency, together with the functions of its Chairman, are transferred to the Federal Security Administrator and shall be performed by him or under his direction and control by such officers and employees of the Federal Security Agency as he shall designate. The Social Security Board is abolished.

\* \* \* \* \*

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<sup>1</sup> This plan became effective July 16, 1946.

<sup>2</sup> See "Administration of the Social Security Act" under Preface, p. III, for explanation of change of name from "Federal Security Administrator" and "Federal Security Agency" to "Department of Health, Education, and Welfare," and "Secretary".

SEC. 10. *Coordination of grant-in-aid programs.*—In order to coordinate more fully the administration of grant-in-aid programs by officers and constituent units of the Federal Security Agency, the Federal Security Administrator shall establish, insofar as practicable, (a) uniform standards and procedures relating to fiscal, personnel, and the other requirements common to two or more such programs, and (b) standards and procedures under which a State agency participating in more than one such program may submit a single plan of operation and be subject to a single Federal fiscal and administrative review of its operation.

## REORGANIZATION PLAN NO. 1 OF 1953\*

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECTION 1. *Creation of Department; Secretary.*—There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 2. *Under Secretary and Assistant Secretaries.*—There shall be in the Department an Under Secretary of Health, Education, and Welfare and two Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

\* \* \* \* \*

SEC. 4. *Commissioner of Social Security.*—There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public

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\* This plan became effective April 11, 1953.

welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended.

SEC. 5. *Transfers to the Department.*—All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

SEC. 6. *Performance of functions of the Secretary.*—The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

\* \* \* \* \*

SEC. 8. *Abolitions.*—The Federal Security Agency (exclusive of the agencies thereof transferred by sec. 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. 1 (53 Stat. 1423), the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan No. 2 of 1946 (60 Stat. 1095), and the office of Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558), are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and offices abolished by this section which are not otherwise provided for in this reorganization plan.

## AGRICULTURAL ACT OF 1949, AS AMENDED \*

(63 Stat. 1051, as amended by 65 Stat. 119, 67 Stat. 500, 69 Stat. 615, and 72 Stat. 924)

### TITLE V—AGRICULTURE WORKERS

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#### POWERS, DUTIES, AND GUARANTIES OF SECRETARY OF LABOR

SEC. 501. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture

\* This Act has been compiled by the United States Department of Labor.

deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico or after every practicable effort has been made by the United States to negotiate and reach agreement on such arrangements), the Secretary of Labor is authorized—

(1) to recruit such workers (including any such workers who have resided in the United States for the preceding five years, or who are temporarily in the United States under legal entry);

(2) to establish and operate reception centers at or near the places of actual entry of such workers into the continental United States for the purpose of receiving and housing such workers while arrangements are being made for their employment in, or departure from, the continental United States;

(3) to provide transportation for such workers from recruitment centers outside the continental United States to such reception centers and transportation from such reception centers to such recruitment centers after termination of employment;

(4) to provide such workers with such subsistence, emergency medical care, and burial expenses (not exceeding \$150 burial expenses in any one case) as may be or become necessary during transportation authorized by paragraph (3) and while such workers are at reception centers;

(5) to assist such workers and employers in negotiating contracts for agricultural employment (such workers being free to accept or decline agricultural employment with any eligible employer and to choose the type of agricultural employment they desire, and eligible employers being free to offer agricultural employment to any workers of their choice not under contract to other employers);

(6) to guarantee the performance by employers of provisions of such contracts relating to the payment of wages or the furnishing of transportation.

#### LIABILITIES AND GUARANTIES OF EMPLOYERS

SEC. 502. No workers shall be made available under this title to any employer unless such employer enters into an agreement with the United States—

(1) to indemnify the United States against loss by reason of its guaranty of such employer's contracts;

(2) to reimburse the United States for essential expenses, not including salaries or expenses of regular department or agency personnel, incurred by it for the transportation and subsistence of workers under this title in amounts not to exceed \$15 per worker; and

(3) to pay to the United States, in any case in which a worker is not returned to the reception center in accordance with the contract entered into under section 501 (5), an amount determined by the Secretary of Labor to be equivalent to the normal cost to the employer of returning other workers from the place of employment to such reception center, less any portion thereof required to be paid by other employers: *Provided, however,* That if the employer can establish to the satisfaction of the Secretary of Labor that the employer has provided or paid to the worker

the cost of return transportation and subsistence from the place of employment to the appropriate reception center, the Secretary under such regulations as he may prescribe may relieve the employer of his obligation to the United States under this subsection.

CERTIFICATION OF NEED OF WORKERS

SEC. 503. No workers recruited under this title shall be available for employment in any area unless the Secretary of Labor has determined and certified that (1) sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed, (2) the employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed, and (3) reasonable efforts have been made to attract domestic workers for such employment at wages and standard hours of work comparable to those offered to foreign workers. In carrying out the provisions of (1) and (2) of this section, provision shall be made for consultation with agricultural employers and workers for the purpose of obtaining facts relevant to the supply of domestic farm workers and the wages paid such workers engaged in similar employment. Information with respect to certifications under (1) and (2) shall be posted in the appropriate local public employment offices and such other public places as the Secretary may require.

WORKERS SUBJECT TO IMMIGRATION LAWS; PENALTY BOND NOT REQUIRED;  
EFFECT OF USE OF "WETBACK" LABOR

SEC. 504. Workers recruited under this title who are not citizens of the United States shall be admitted to the United States subject to the immigration laws (or if already in, for not less than the preceding five years or by virtue of legal entry, and otherwise eligible for admission to, the United States may, pursuant to arrangements between the United States and the Republic of Mexico, be permitted to remain therein) for such time and under such conditions as may be specified by the Attorney General but, notwithstanding any other provision of law or regulation, no penalty bond shall be required which imposes liability upon any person for the failure of any such worker to depart from the United States upon termination of employment: *Provided*, That no workers shall be made available under this title to, nor shall any workers made available under this title be permitted to remain in the employ of, any employer who has in his employ any Mexican alien when such employer knows or has reasonable grounds to believe or suspect or by reasonable inquiry could have ascertained that such Mexican alien is not lawfully within the United States.

AMENDMENTS TO OTHER STATUTES

SEC. 505. (a) Section 210 (a) (1) of the Social Security Act, as amended, is amended by adding at the end thereof a new subparagraph as follows:

(C) Service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended.

(b)<sup>5</sup> Section 1426 (b) (1) of the Internal Revenue Code, as amended, is amended by adding at the end thereof a new paragraph as follows:

(C) Service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended.

(c) Workers recruited under the provisions of this title shall not be subject to the head tax levied under section 2 of the Immigration Act of 1917 (8 U. S. C., sec. 132).

#### UTILIZATION OF FEDERAL AND STATE AGENCIES

SEC. 506. For the purposes of this title, the Secretary of Labor is authorized—

(1) to enter into agreements with Federal and State agencies; to utilize (pursuant to such agreements) the facilities and services of such agencies; and to allocate or transfer funds or otherwise to pay or reimburse such agencies for expenses in connection therewith;

(2) to accept and utilize voluntary and uncompensated services; and

(3) when necessary to supplement the domestic agricultural labor force, to cooperate with the Secretary of State in negotiating and carrying out agreements or arrangements relating to the employment in the United States, subject to the immigration laws, of agricultural workers from the Republic of Mexico.

#### DEFINITIONS

SEC. 507. For the purposes of this title—

(1) The term "agricultural employment" includes services or activities included within the provisions of section 3 (f) of the Fair Labor Standards Act of 1938, as amended, or section 1426 (h) of the Internal Revenue Code, as amended,<sup>6</sup> horticultural employment, cotton ginning, compressing and storing, crushing of oil seeds, and the packing, canning, freezing, drying, or other processing of perishable or seasonable agricultural products.

(2) The term "employer" shall include an association, or other group, of employers, but only if (A) those of its members for whom workers are being obtained are bound, in the event of its default, to carry out the obligations undertaken by it pursuant to section 502, or (B) the Secretary determines that such individual liability is not necessary to assure performance of such obligations.

#### IMPORTATION OF WORKERS FROM OTHER FOREIGN COUNTRIES

SEC. 508. Nothing in this Act shall be construed as limiting the authority of the Attorney General, pursuant to the general immigration

<sup>5</sup> This section has been incorporated at section 3121 (b) of the Internal Revenue Code of 1954 as follows:

"(b) EMPLOYMENT.—For the purposes of this chapter the term 'employment' • • • in the case of service performed after 1954, • • • shall not include—

(1) (C) service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended (65 Stat. 119; 7 U. S. C. 1461-1468)."

<sup>6</sup> Now sec. 3121 (g) of the Internal Revenue Code of 1954.

laws, to permit the importation of aliens of any nationality for agricultural employment as defined in section 507, or to permit any such alien who entered the United States legally to remain for the purpose of engaging in such agricultural employment under such conditions and for such time as he, the Attorney General, shall specify.

#### EXPIRATION DATE OF THESE PROVISIONS

SEC. 509. No workers will be made available under this title for employment after June 30, 1961.<sup>6a</sup>

### RAILROAD RETIREMENT ACT OF 1937, AS AMENDED

#### SEC. 1. \* \* \*

(q) The terms "Social Security Act" and "Social Security Act, as amended," shall mean the Social Security Act as amended in 1958.<sup>7</sup>

#### SEC. 3. \* \* \*

(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2 (a) 3, be whichever of the following is the least: (1) \$4.55 multiplied by the number of his years of service; or (2) \$75.90; or (3) his monthly compensation: *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act (or would have been entitled except for a reduction pursuant to section 2 (a) 3 or a joint and survivor election), together with his or her spouse's annuity, if any, or the total of survivor annuities under this Act deriving from the same employee, is less than the amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act (deeming completely and partially insured individuals to be fully and currently insured, respectively, individuals entitled to insurance annuities under subsections (a) and (d) of section 5 to have attained age sixty-five, and individuals entitled to insurance annuities under subsection (c) of section 5 on the basis of disability to be less than eighteen years of age, and disregarding any possible deductions under subsections (f) and (g) (2) of section 203 of the Social Security Act) if such employee's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act and quarters of coverage were determined in accordance with section 5 (1) (4) of this Act, such annuity or annuities, shall be increased proportionately to a total of such amount or such additional amount.

For the purposes of this subsection, the Board shall have the same authority to determine a "period of disability" within the meaning of section 216 (i) of the Social Security Act, with respect to any employee who will have filed application therefor and (i) have completed ten years of service or (ii) have been awarded an annuity, as the Secretary of Health, Education, and Welfare would have to determine such a period under such section 216 (i) if the employee met the requirements

<sup>6a</sup> P. L. 85-779, changed "1959" to "1961."

<sup>7</sup> Sec. 703 of P. L. 85-840 changed "1957" to "1958". Sec. 4 (a) of P. L. 85-238, enacted on August 30, 1937, had changed "1956" to "1957".

of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes "employment" within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: *Provided*, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216 (i) (4) of the Social Security Act, be deemed filed after December 1954 and before July 1958: *Provided further*, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a "period of disability" shall be deemed a final decision of the Board determining the rights of persons under this Act for purposes of section 11 of this Act. An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a "period of disability" under section 216 (i) of the Social Security Act.<sup>8</sup>

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#### SEC. 4. \* \* \*

(n) In addition to the amount authorized to be appropriated in subsection (a) of section 15 of this Act, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1941, (1) an amount sufficient to meet the additional cost of crediting military service rendered prior to January 1, 1937, and (2) an amount found by the Board to be equal to the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under Subchapter B of Chapter 9 of the Internal Revenue Code, as amended, with respect to the compensation, as defined in such Subchapter B, of all individuals entitled to credit under the Railroad Retirement Acts, as amended, for military service after December 31, 1936, and prior to January 1, 1957, if each of such individuals, in addition to compensation actually earned, had earned such compensation in the amount of \$160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount earned by any individual in any one calendar month, and (3) an amount found by the Board to be equal to (A) the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under chapter 22 of the Internal Revenue Code of 1954 with respect to the compensation, as defined in such chapter, of all individuals entitled (without regard to subsection (p) (1) of this section) to credit under this Act for military serv-

<sup>8</sup> Sec. 1 (b) of P. L. 85-927 added the last paragraph to subsec. 3 (e), effective with respect to determinations of periods of disability, within the meaning of sec. 216 (i) of the Social Security Act, made on or after September 6, 1958.



ice after December 1956 if each of such individuals, in addition to compensation actually paid, had been paid such compensation in the amount of \$160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount paid to any individual in any one calendar month, less (B) the amount of the taxes which were paid with respect to such military service under sections 3101 and 3111 of the Internal Revenue Code of 1954. The additional cost of crediting military service rendered prior to January 1, 1937, shall be deemed to be the difference between the actuarial value of each annuity based in part on military service and the actuarial value of the annuity which would be payable to the same individual without regard to military service. In calculating these actuarial values, (1) whenever the annuity based in part on military service begins to accrue before age 60, the annuity without regard to military service shall be valued on the assumption of deferment to age 60, and whenever the annuity based in part on military service is awarded under subsection 2 (a) of section 2 (a), the annuity without regard to military service shall be valued on the assumption of deferment to age 65; and (2) all such actuarial values shall be calculated as of the date on which the annuity based on military service begins to accrue and shall not thereafter be subject to change. All such actuarial calculations shall be based on the Combined Annuity Table of Mortality and all calculations in this subsection shall take into account interest at the rate of 3 per centum per annum compounded annually. The Railroad Retirement Board, as promptly as practicable after the enactment of this amendment, and thereafter annually, shall submit to the Bureau of the Budget estimates of such military service appropriations to be made to the account, in addition to the annual estimate by the Board, in accordance with subsection (a) of section 15 of this Act, of the appropriation to be made to the account to provide for the payment of annuities, pensions and death benefits not based on military service. The estimate made in any year with respect to military service rendered prior to January 1, 1937, shall be based on the cost, as determined in accordance with the above provisions, of annuities awarded or increased on the basis of such military service up to the close of the preceding fiscal year and not previously appropriated for, and shall take into account interest from the date the annuity began to accrue or was increased to the date or dates on which the amount appropriated is to be credited to the Railroad Retirement Account. In making the estimate for the appropriation for military service rendered after December 31, 1936, the Board shall take into account any excess or deficiency in the appropriation or appropriations for such service in any preceding fiscal year or years, with interest thereon, resulting from an overestimate or underestimate of the number of individuals in creditable military service or the months of military service. In determining pursuant to section 5 (k) (2) for any fiscal year the total amount to be credited from the Railroad Retirement Account to the Old-Age and Survivors Insurance Trust Fund, credit shall be given such Account for the amount of the taxes described in clause (3) (B) of the first sentence of this subsection.

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(p) (1) Military service rendered by an individual after December 1956 shall be creditable under this section only if the number of such individual's years of service is ten or more (including, in such years of service, military service which, but for this subsection, would be creditable under this section).

(2) In any case where an individual has completed ten or more years of service and such years of service include any military service rendered after December 1956, the Board shall as promptly as is practicable (A) notify the Secretary of Health, Education, and Welfare that such military service is creditable under this section and (B) specify the period or periods of the military service rendered after December 1956 which is so creditable.

(q) Notwithstanding the provisions of this section and section 2 (c) (2), military service rendered by an individual after December 1956 shall not be used in determining eligibility for, or computing the amount of, any annuity accruing under section 2 for any month if (1) any benefits are payable for that month under title II of the Social Security Act on the basis of such individual's wages and self-employment income, (2) such military service was included in the computation of such benefits, and (3) the inclusion of such service in the computation of such benefits resulted (for that month) in benefits not otherwise payable or in an increase in the benefits otherwise payable.

(r) The Secretary concerned (as defined in section 102 (9) of the Servicemen's and Veterans' Survivor Benefits Act) shall maintain such records, and furnish the Board upon its request with such information, regarding the months of any individual's military service and the remuneration paid therefor, as may be necessary to enable the Board to carry out its duties under this section and sections 2 and 5.

#### ANNUITIES AND LUMP SUMS FOR SURVIVORS

##### SEC. 5. \* \* \*

(f) LUMP-SUM PAYMENT.—(1) Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee.<sup>9</sup> If a lump sum would be payable to a widow or wid-

<sup>9</sup> Sec. 2 (a) of P. L. 85-927 amended subsec. 5 (f) by substituting the first two sentences for the former first three sentences of this subsection, effective with respect to deaths occurring in months after September 1958. The former first three sentences read as follows: "Upon the death, on or after January 1, 1947, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, there shall be paid a lump sum of ten times the employee's basic amount to the following person (or if more than one there shall be distributed among them) whose relationship to the deceased employee will have been determined by the Board, and who will have been living on the date of such determination: to the widow or widower of the deceased; or, if no such widow or widower be then living, to any child or children

ower<sup>10</sup> under this subsection except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (i) will have been made, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section.<sup>11</sup> No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 2 of the Act of March 7, 1942 (56 Stat. 143, 144), is applicable such two years shall run from the date on which the deceased employee, pursuant to said Act, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on the date determined pursuant to said Act to be the date or presumptive date of death.

(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits, or no further benefits, other than benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216 (a) of the Social Security Act) at a future date, will be payable under title II of the Social Security Act, as amended, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death;  
or

of the deceased and to any other person or persons who, under the intestacy law of the State where the deceased will have been domiciled, will have been entitled to share as distributees with such children of the deceased, in such proportions as is provided by such law, or, if no widow or widower and no such child and no such other person be then living, to the parent or parents of the deceased, in equal shares. A person who is entitled to share as distributee with an above-named relative of the deceased shall not be precluded from receiving a payment under this subsection by reason of the fact that no such named relative will have survived the deceased or of the fact that no such named relative of the deceased will have been living on the date of such determination. If none of the persons described in this subsection be living on the date of such determination, such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of the deceased."

<sup>10</sup> Sec. 2 (a) (2) of P. L. 85-927 substituted "widow or widower" in place of "widow, widower, child or parent" effective with respect to deaths occurring after September 1958.

<sup>11</sup> Sec. 2 (a) (3) of P. L. 85-927 substituted the material beginning with "a payment equal to" and through the end of the sentence, for the following "a payment to any then surviving widow, widower, children, or parents shall nevertheless be made under this subsection equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions.", effective with respect to deaths occurring in months after September 1958.

(ii) if there be no such widow or widower, to any child or children of such employee; or

(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

(iv) if there be no such widow, widower, child, grandchild, to any parent or parents of such employee; or

(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee,

a lump-sum<sup>12</sup> in an amount equal to the sum of 4 per centum of his or her compensation paid after December 31, 1936, and prior to January 1, 1947, and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954, minus the sum of all benefits paid to him or her, and to others deriving from him or her, during his or her life, or to others by reason of his or her death, under this Act and, pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended: *Provided, however,* That if the employee is survived by a widow, widower, or parent who may upon attaining age sixty be entitled to further benefits under this section or pursuant to subsection (k) of this section upon attaining retirement age (as defined in section 216 (a) of the Social Security Act) be entitled to further benefits under title II of the Social Security Act, as amended, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this section or, pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended. Such election shall be legally effective according to its terms. Nothing in this section shall operate to deprive a widow, widower, or parent making such election of any insurance benefits under title II of the Social Security Act, as amended, to which such widow, widower, or parent would have been entitled had this section not been enacted. The term "benefits" as used in this paragraph includes all annuities payable under this Act, lump sums payable under paragraph (1) of this subsection, and insurance benefits and lump-sum payments under title II of the Social Security Act, as amended, pursuant to subsection (k) of this section, except that the deductions of the benefits which, pursuant to subsection (k) (1) of this section, are paid under title II of the Social Security Act, during the life of the employee to him or to her and to others deriving from him or her, shall be limited to such portions of such benefits as are payable solely by reason of the inclusion of service as an employee in "employment" pursuant to said subsection (k) (1).

(g) CORRELATION OF PAYMENTS.—(1) An individual, entitled on applying therefor to receive for a month before January 1, 1947, an

<sup>12</sup> Sec. 2 (b) of P. L. 85-927 substituted the material beginning with "to the following person" through the end of clause (vi), in place of the following: "to the person or persons in the order provided in paragraph (1) of this subsection or, in the absence of such person or persons, to his or her estate," effective with respect to deaths occurring after September 1958.

insurance benefit under the Social Security Act on the basis of an employee's wages, which benefit is greater in amount than would be an annuity for such individual under this section with respect to the death of such employee, shall not be entitled to such annuity. An individual, entitled on applying therefor to any annuity or lump sum under this section with respect to the death of an employee, shall not be entitled to a lump-sum death payment or, for a month beginning on or after January 1, 1947, to any insurance benefits under the Social Security Act on the basis of the wages of the same employee.

(2) If an individual is entitled to more than one annuity for a month under this section, such individual shall be entitled only to that one of such annuities for a month which is equal to or exceeds any other such annuity.

(3) In the case of any individual receiving or entitled to receive an annuity under this section on the day prior to the date of enactment of the provisions of this paragraph, the application of paragraph (2) of this subsection to such individual shall not operate to reduce the sum of (A) the annuity under this section of such individual, (B) the retirement annuity, if any, of such individual, and (C) the benefits under the Social Security Act which such individual receives or is entitled to receive, to an amount less than such sum was before the enactment of the provisions of this paragraph.

\* \* \* \* \*

(k) PROVISIONS FOR CREDITING RAILROAD INDUSTRY SERVICE UNDER THE SOCIAL SECURITY ACT IN CERTAIN CASES.—(1) For the purpose of determining (i) insurance benefits under title II of the Social Security Act to an employee who will have completed less than ten years of service and to others deriving from him or her during his or her life and with respect to his or her death, and lump-sum death payments with respect to the death of such employee, and (ii) insurance benefits with respect to the death of an employee who will have completed ten years of service which would begin to accrue on or after January 1, 1947, and with respect to lump-sum death payments under such title payable in relation to a death of such an employee occurring on or after such date, and for the purposes of sections 203 and section 216 (i) (3) of that Act, section 15 of the Railroad Retirement Act of 1935, section 210 (a) (10) <sup>13</sup> of the Social Security Act, and section 17 of this Act shall not operate to exclude from "employment", under title II of the Social Security Act, service which would otherwise be included in such "employment" but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this paragraph to service as an employee, all services as defined in section 1 (c) of this Act shall be deemed to have been performed within the United States.<sup>14</sup>

<sup>13</sup> This section was redesignated "sec. 210 (a) (9)", by sec. 101 (a) (5) of the 1954 Amendments.

<sup>14</sup> Prior to the Act of October 30, 1951 (65 Stat. 683), this provision was applicable only for purposes of determining benefits to the survivors of the deceased employee. As to those employees who had less than ten years of railroad service and who were awarded annuities prior to the Act of October 30, 1951, see saving clause on p. 347.

(2) (A) The Board and the Secretary of Health, Education, and Welfare shall determine, no later than January 1, 1954, the amount which would place the Federal Old-Age and Survivors Insurance Trust Fund in the same position in which it would have been at the close of the fiscal year ending June 30, 1952, if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act.

(B) On January 1, 1954, for the fiscal year ending June 30, 1953, and at the close of each fiscal year beginning with the fiscal year ending June 30, 1954, the Board and the Secretary of Health, Education, and Welfare shall determine, and the Board shall certify to the Secretary of the Treasury for transfer from the Railroad Retirement Account (hereafter termed "Retirement Account") to the Federal Old-Age and Survivors Insurance Trust Fund, interest for such fiscal year at the rate specified in subparagraph (D) on the amount determined under subparagraph (A) less the sum of all offsets made under subparagraph (C) (i).

(C) (i) At the close of the fiscal year ending June 30, 1953, and each fiscal year thereafter the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. For the purposes of this subparagraph, the amount determined under subparagraph (A), less such offsets as have theretofore been made under this subdivision of this subparagraph, and the amount determined under subparagraph (B) for the fiscal year under consideration shall be deemed to be part of the Federal Old-Age and Survivors Insurance Trust Fund. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Old-Age and Survivors Insurance Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Old-Age and Survivors Insurance Trust Fund; if such amount is to be subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Old-Age and Survivors Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined in subparagraph (D) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification. In the event the Secretary of Health, Education, and Welfare is required under the provisions of this subdivision of this subparagraph to certify to the Secretary of the Treasury an amount to be transferred to the Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Secretary of Health, Education, and Welfare, in lieu of such certification, may offset the amount determined under the first sentence of this subdivision of this subparagraph against the amount determined under subparagraph (A) as diminished by any prior offsets

and the offsets shall be made to be effective as of the first day of the fiscal year following the fiscal year under consideration.

(ii) At the close of the fiscal year ending June 30, 1958, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which, if added to or subtracted from the Federal Disability Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Disability Insurance Trust Fund the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Disability Insurance Trust Fund; if such amount is to be subtracted from the Federal Disability Insurance Trust Fund the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Disability Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined in subparagraph (D) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(D) For the purposes of subparagraphs (B) and (C), for any fiscal year, the rate of interest to be used shall be equal to the average rate of interest, computed as of May 31 preceding the close of such fiscal year, borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(E) The Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund from the Retirement Account or to the Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as the case may be, such amounts as, from time to time, may be determined by the Board and the Secretary of Health, Education, and Welfare pursuant to the provisions of subparagraphs (B) and (C) of this subsection, and certified by the Board or the Secretary of Health, Education, and Welfare for transfer from the Retirement Account or from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund.

(3) The Board and the Secretary of Health, Education, and Welfare<sup>15</sup> shall, upon request, supply each other with certified reports of records of compensation or wages and periods of service of determinations under section 3 (e) of this Act, or section 216 (i) of the Social Security Act, of periods of disability within the meaning of such section 216 (i)<sup>16</sup> and of other records in their possession or which they

<sup>15</sup> See Preface, p. III, for change in designation from "Federal Security Administrator" to "Secretary of Health, Education, and Welfare".

<sup>16</sup> Sec. 2 (e) (1) of P. L. 85-927 added the phrase beginning with "of determinations under section 3 (e)" through "such section 216 (i)", effective September 6, 1958.

may secure, pertinent to the administration of this section, section 3 (e) of this Act,<sup>17</sup> or title II of the Social Security Act as affected by paragraph (1). Such certified reports shall be conclusive in adjudication as to the matters covered therein (except in the case of a determination of disability under section 216 (i) of the Social Security Act):<sup>18</sup> *Provided*, That if the Board or the Secretary of Health, Education, and Welfare,<sup>19</sup> receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence, such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health, Education, and Welfare,<sup>20</sup> whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertifications shall be treated in the same manner and be subject to the same conditions as an original certification.

\* \* \* \* \*

(1) DEFINITIONS.—For the purposes of this section the term “employee” includes an individual who will have been an “employee”, and—

(1) the qualifications for “widow”, “widower”, “child”, and “parent” shall be, except for the purposes of subsection (f), those set forth in section 216 (c), (e), and (g), and section 202 (h) (3) of the Social Security Act, respectively; and in addition—

(i) a “widow” or “widower” shall have been living with the employee at the time of the employee’s death; a widower shall have received at least one-half of his support from his wife employee at the time of her death or he shall have received at least one-half of his support from his wife employee at the time her retirement annuity or pension began.

(ii) a “child” shall have been dependent upon its parent employee at the time of his death; shall not be adopted after such death by other than a step parent, grandparent, aunt, or uncle; shall be unmarried; and shall be less than eighteen years of age, or shall have a permanent physical or mental condition which is such that he is unable to engage in any regular employment: *Provided*, That such disability began before the child attains age eighteen, and

(iii) a “parent” shall have received, at the time of the death of the employee to whom the relationship of parent is claimed, at least one-half of his support from such employee.

A “widow” or “widower” shall be deemed to have been living with the employee if the conditions set forth in section 216 (h) (2) or (3), whichever is applicable, of the Social Security Act, as in effect prior to 1957,<sup>21</sup> are fulfilled. A “child” shall be deemed to have been dependent upon a parent if the conditions set forth in section 202 (d) (3), (4) or (5) of the Social Security Act are fulfilled (a partially insured mother being deemed currently insured). In determining for the purposes of this section and subsection (f) of section 2 whether

<sup>17</sup> Sec. 2 (e) (2) of P. L. 85-927 added “, section 3 (e) of this Act”, effective September 6, 1958.

<sup>18</sup> Sec. 2 (e) (3) of P. L. 85-927 added the parenthetical phrase, effective September 6, 1958.

<sup>19</sup> See footnote 15.

<sup>20</sup> See footnote 15.

<sup>21</sup> Sec. 4 (b) of P. L. 85-238 added the phrase “as in effect prior to 1957” effective August 30, 1957.



an applicant is the wife, husband, widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216 (h) (1) of the Social Security Act, as in effect prior to 1957,<sup>22</sup> shall be applied. Such satisfactory proof shall be made from time to time, as prescribed by the Board, of the disability provided in clause (ii) of this paragraph and of the continuance, in accordance with regulations prescribed by the Board, of such disability. If the individual fails to comply with the requirements prescribed by the Board as to the proof of the continuance of the disability his right to an annuity shall, except for good cause shown to the Board cease;

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SEC. 17. The term "employment," as defined in section 210 of title II of the Social Security Act, shall not include service performed by an individual as an employee as defined in section 1 (b).

\* \* \* \* \*

SEC. 20. Any person awarded an annuity or pension under this Act may decline to accept all or any part of such annuity or pension by a waiver signed and filed with the Board. Such waiver may be revoked in writing at any time, but no payment of the annuity or pension waived shall be made covering the period during which such waiver was in effect. Such waiver shall have no effect on the amount of the spouse's annuity, or of a lump sum under section 5 (f) (2), which would otherwise be due, and it shall have no effect for purposes of the last sentence of section 5 (g) (1).

## ACT OF OCTOBER 30, 1951 (65 STAT. 683)

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### EFFECTIVE DATES

SEC. 25. (a) Except as otherwise specifically provided, the amendments made by this Act shall take effect with respect to benefits accruing under the Railroad Retirement Acts and the Social Security Act after the last day of the month in which this Act is enacted, irrespective of when service or employment occurred or compensation or wages were earned: *Provided, however,* That, in the recomputation pursuant to this Act of survivor annuities heretofore awarded, the basic amount shall not be recomputed.

\* \* \* \* \*

(d) In the case of any retirement or survivor annuity awarded under the Railroad Retirement Acts prior to the date of enactment of this Act and currently payable, if such annuity was awarded to, or with respect to the death of, any individual who has completed less than ten years of service, then the amendments made by this Act shall apply with respect to such annuity as if such individual had met the requirement of ten years of service which is imposed as a condition to benefits under the Railroad Retirement Act of 1937, as amended by this Act. In addition, the spouse of any such individual shall not, during such individual's lifetime, be barred from a spouse's annuity under such Act by reason of the fact that such individual has completed less than ten years of service.

<sup>22</sup> See footnote 21.

**RAILROAD RETIREMENT ACT OF 1935 (49 STAT. 967)**

SEC. 15. The term "employment" as defined in subsection (b) of section 210 of Title II of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of the Railroad Retirement Act of 1935.

**ACT OF AUGUST 13, 1940****(MINING OF COAL)**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1 (a) of the Railroad Retirement Act of 1937, section 1 (a) of the Carriers Taxing Act of 1937, section 1532 (a) of the Internal Revenue Code, and section 1 (a) of the Railroad Unemployment Insurance Act are amended, effective in the case of each such Act as of the date of its enactment, by adding at the end of each such section the following new sentence: "The term 'employer' shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities."

SEC. 2. Section 1 (a) of the Railroad Retirement Act of 1935 and paragraph First of section 1 of the Railway Labor Act, as amended, are amended, effective in the case of each such Act as of the date of its enactment, by adding at the end of each such section and paragraph the following new sentence: "The term 'carrier' shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to a carrier where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities."

SEC. 3. Section 1 (b) of the Railroad Retirement Act of 1937, section 1 (b) of the Carriers Taxing Act of 1937, section 1532 (b) of the Internal Revenue Code, the first paragraph of section 1 (d) of the Railroad Unemployment Insurance Act, section 1 (b) of the Railroad Retirement Act of 1935, and paragraph Fifth of section 1 of the Railway Labor Act, as amended, are amended in the case of each such Act as of the date of its enactment, by adding at the end of each such section and paragraph the following new paragraph:

"The term 'employee' shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple."

SEC. 4. (a) The laws hereby expressly amended, the Social Security Act, approved August 14, 1935, and all amendments thereto, shall operate as if each amendment herein contained had been enacted as a part of the law it amends, at the time of the original enactment of such law.

(b) No person (as defined in the Carriers Taxing Act of 1937) shall be entitled, by reason of the provisions of this Act, to a refund of, or relief from liability for, any income or excise taxes paid or accrued, pursuant to the provisions of the Carriers Taxing Act of 1937 or subchapter B of chapter 9 of the Internal Revenue Code, prior to the date of the enactment of this Act by reason of employment in the service of any carrier by railroad subject to part I of the Interstate Commerce Act, but any individual who has been employed in such service of any carrier by railroad subject to part I of the Interstate Commerce Act as is excluded by the amendments made by this Act from coverage under the Carriers Taxing Act of 1937 and subchapter B of chapter 9 of the Internal Revenue Code, and who has paid income taxes under the provisions of such Act or subchapter, and any carrier by railroad subject to part I of the Interstate Commerce Act which has paid excise taxes under the provisions of the Carriers Taxing Act of 1937 or subchapter B of chapter 9 of the Internal Revenue Code, may, upon making proper application therefor to the Bureau of Internal Revenue,\* have the amount of taxes so paid applied in reduction of such tax liability with respect to employment, as may, by reason of the amendments made by this Act, accrue against them under the provisions of title VIII of the Social Security Act or the Federal Insurance Contributions Act (subchapter A of chapter 9 of the Internal Revenue Code).

(c) Nothing contained in this Act shall operate (1) to affect any annuity, pension, or death benefit granted under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, prior to the date of enactment of this Act, or (2) to include any of the services on the basis of which any such annuity or pension was granted, as employment within the meaning of section 210 (b) of the Social Security Act or section 209 (b) of such Act, as amended. In any case in which a death benefit alone has been granted, the amount of such death benefit attributable to services, coverage of which is affected by this Act, shall be deemed to have been paid to the deceased under section 204 of the Social Security Act in effect prior to January 1, 1940, and deductions shall be made from any insurance benefit or benefits payable under the Social Security Act, as amended, with respect to wages paid to an individual for such services until such deductions total the amount of such death benefit attributable to such services.

(d) Nothing contained in this Act shall operate to affect the benefit rights of any individual under the Railroad Unemployment Insurance Act for any day of unemployment (as defined in section 1 (k) of such Act) occurring prior to the date of enactment of this Act.

SEC. 5. Any application for payment filed with the Railroad Retirement Board prior to, or within sixty days after, the enactment of this Act shall, under such regulations as the Social Security Board may prescribe, be deemed to be an application filed with the Social Security Board by such individual or by any person claiming any payment with respect to the wages of such individual, under any provision of section 202<sup>23</sup> of the Social Security Act, as amended.

SEC. 6. Nothing contained in this Act, nor the action of Congress in adopting it, shall be taken or considered as affecting the question of what carriers, companies, or individuals, other than those in this

\*Now the Internal Revenue Service.

<sup>23</sup> See p. 13.

Act specifically provided for, are included in or excluded from the provisions of the various laws to which this Act is an amendment.

SEC. 7. (a) Notwithstanding the provisions of section 1605 (b) of the Internal Revenue Code, no interest shall, during the period February 1, 1940, to the eighty-ninth day after the date of enactment of this Act, inclusive, accrue by reason of delinquency in the payment of the tax imposed by section 1600 with respect to services affected by this Act performed during the period July 1, 1939, to December 31, 1939, inclusive, with respect to which services amounts have been paid as contributions under the Railroad Unemployment Insurance Act prior to the date of enactment of this Act.

(b) Notwithstanding the provisions of section 1601 (a) (3) of the Internal Revenue Code, the credit allowable under section 1601 (a) against the tax imposed by section 1600 for the calendar year 1939 shall not be disallowed or reduced by reason of the payment into a State unemployment fund after January 31, 1940, of contributions with respect to services affected by this Act performed during the period July 1, 1939, to December 31, 1939, inclusive, with respect to which services amounts have been paid as contributions under the Railroad Unemployment Insurance Act prior to the date of enactment of this Act: *Provided*, That this subsection shall be applicable only if the contributions with respect to such services are paid into the State unemployment fund before the ninetieth day after the date of enactment of this Act.

Approved, August 13, 1940.

## CIVIL SERVICE RETIREMENT ACT OF MAY 29, 1930, AS AMENDED, 24 STAT. 472

### (MILITARY SERVICE EXCLUSION)

SEC. 5. \* \* \* Notwithstanding any other provision of this section, any service (other than service covered by military leave with pay from a civilian position) performed by an individual after December 1956 as a member of a uniformed service on active duty or active duty for training (as those terms are defined in section 102 of the Servicemen's and Veterans' Survivor Benefits Act) shall be excluded in determining the aggregate period of service upon which an annuity payable under this Act to such individual or to his widow or child is to be based, if such individual or widow or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old-age or survivors benefits under section 202 of the Social Security Act based on such individual's wages and self-employment income. If in the case of the individual or widow such service is not excluded under the preceding sentence, but upon attaining retirement age (as defined in section 216 (a) of the Social Security Act) he or she becomes entitled (or would upon proper application be entitled) to such benefits, the Commission shall redetermine the aggregate period of service upon which such annuity is based, effective as of the first day of the month in which he or she attains such age, so as to exclude such service. The Secretary of Health, Education, and Welfare shall, upon the request of the Commission, inform the Commission whether or not any such individual or widow or child is entitled at any specified time to such benefits.<sup>24</sup>

<sup>24</sup> This paragraph was added to sec. 5 of the Civil Service Retirement Act of 1930, as amended, by sec. 409 of P. L. 84-881, effective January 1, 1957.

## ACT OF AUGUST 11, 1939 (P. L. 76-400)

## HURRICANE SALVAGE WORK BEFORE 1940

SEC. 2. No tax shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to services rendered prior to January 1, 1940, in the employ of the owner or tenant of land, in salvaging timber on such land or clearing such land of brush and other debris left by a hurricane; and any such tax heretofore collected (including penalty and interest with respect thereto, if any), shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payment shall be made under title II of the Social Security Act with respect to such services rendered prior to January 1, 1940.<sup>25</sup>

## ACT OF MARCH 24, 1943

## MARITIME EMPLOYEES OF THE WAR SHIPPING ADMINISTRATION

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) officers and members of crews (hereinafter referred to as "seamen") employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration shall, with respect to (1) laws administered by the Public Health Service and the Social Security Act, as amended by subsection (b) (2) and (3)<sup>25a</sup> of this section; (2) death, injuries, illness, maintenance and cure, loss of effects, detention or repatriation, or claims arising therefrom not covered by the foregoing clause (1); and (3) collection of wages and bonuses and making of allotments, have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. Such seamen, because of the temporary wartime character of their employment by the War Shipping Administration, shall not be considered as officers or employees of the United States for the purposes of the United States Employees Compensation Act as amended; the Civil Service Retirement Act, as amended; the Act of Congress approved March 7, 1942 (Public Law 490, Seventy-seventh Congress); or the Act entitled "An Act to provide benefits for the injury, disability, death, or detention of employees of contractors with the United States and certain other persons or reimbursement therefor," approved December 2, 1942 (Public Law 784, Seventy-seventh Congress). Claims arising under clause (1) hereof shall be enforced in the same manner as such claims would be enforced if the seaman were employed on a privately owned and operated American vessel. Any claim referred to in clause (2) or (3) hereof shall, if administratively disallowed in whole or in part, be enforced pursuant to the provisions of the Suits in Admiralty Act, notwithstanding the vessel on which the seaman is employed is

<sup>25</sup> See former sec. 209 (1) (2) of the Social Security Act, as amended, p. 274, for an exemption of similar services after December 31, 1939.

<sup>25a</sup> Subsec. (b) (2) referred to herein added former sec. 209 (a) to the Social Security Act; subsec. (b) (3) amends sec. 907 of the Social Security Act Amendments of 1939, see p. 160.

not a merchant vessel within the meaning of such Act. Any claim, right, or cause of action of or in respect of any such seaman accruing on or after October 1, 1941, and prior to the date of enactment of this section may be enforced, and upon the election of the seaman or his surviving dependent or beneficiary, or his legal representative to do so shall be governed, as if this section had been in effect when such claim, right, or cause of action accrued, such election to be made in accordance with rules and regulations prescribed by the Administrator, War Shipping Administration. Rights of any seaman under the Social Security Act as amended by subsection (b) (2) and (3), and claims therefor shall be governed solely by the provisions of such Act, so amended. When used in this subsection the term "administratively disallowed" means a denial of a written claim in accordance with rules and regulations prescribed by the Administrator, War Shipping Administration. When used in this subsection the terms "War Shipping Administration" and "Administrator, War Shipping Administration" shall be deemed to include the United States Maritime Commission with respect to the period beginning October 1, 1941, and ending February 11, 1942, and the term "seaman" shall be deemed to include any seaman employed as an employee of the United States through the War Shipping Administration on vessels made available to or subchartered to other agencies or departments of the United States.

## TITLE 38 U. S. C.—VETERANS' BENEFITS <sup>26</sup>

### Chapter 1—General <sup>27</sup>

#### § 101. Definitions.

For the purposes of this title—

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term "widow" means (except for purposes of chapter 19 of this title) a woman who was the wife of a veteran at the time of his death, and who lived with him continuously from the date of marriage to the date of his death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife) and who has not remarried (unless the purported remarriage is void).

(4) The term "child" means (except for purposes of chapter 19 of this title and section 5202 (b) of this title) a person who is unmarried and—

(A) who is under the age of eighteen years;

(B) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(C) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-one years), is pursuing a course of instruction at an approved educational institution;

<sup>26</sup> Title 38, United States Code, approved September 2, 1958, incorporated into one Act all of the laws administered by the Veterans Administration and for other purposes.

<sup>27</sup> Chapter 1 of Title 38, U. S. C., was compiled by the Veterans' Administration.

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Administrator to be the father of such child.

(5) The term "parent" means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before his entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service.

\* \* \* \* \*

(10) The term "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

\* \* \* \* \*

(12) The term "veteran of any war" means any veteran who served in the active military, naval, or air service during a period of war.

\* \* \* \* \*

(14) The term "dependency and indemnity compensation" means a monthly payment made by the Administrator to a widow, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a widow, child, or parent, in the case of such a death occurring before January 1, 1957.

\* \* \* \* \*

(16) The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

\* \* \* \* \*

(18) The term "discharge or release" includes retirement from the active military, naval, or air service.

\* \* \* \* \*

(20) The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(21) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (a) while on transfer to one of the Armed Forces, or (b) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (c) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law; and

(D) authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(23) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 301 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

In the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

(24) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

(25) The term "Secretary concerned" means—



(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of the Treasury, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the Coast and Geodetic Survey.

(26) The term "Reserves" means members of a reserve component of one of the Armed Forces.

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) the Army Reserve;

(B) the Naval Reserve;

(C) the Marine Corps Reserve;

(D) the Air Force Reserve;

(E) the Coast Guard Reserve;

(F) the National Guard of the United States; and

(G) the Air National Guard of the United States.

## § 102. Dependent parents and dependent husbands \* \* \*

(b) For the purposes of this title (except chapters 19 and 33), (1) the term "wife" includes the husband of any female veteran if such husband is incapable of self-maintenance and is permanently incapable of self-support due to mental or physical disability; and (2) the term "widow" includes the widower of any female veteran if such widower is incapable of self-maintenance and was permanently incapable of self-support due to physical or mental disability at the time of the veteran's death.

## § 103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by a woman as the widow of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that she, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabitated with him for five or more years immediately before his death, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a widow has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(c) In determining whether or not a woman is or was the wife of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Veterans' Administration according to the law of the place where the parties resided at the time of the mar-

riage or the law of the place where the parties resided when the right to benefits accrued.

\* \* \* \* \*

### § 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was the result of his own willful misconduct. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring him to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the service, or by absenting himself without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

### § 106. Certain service deemed to be active service

(a) (1) Service as a member of the Women's Army Auxiliary Corps for ninety days or more by any woman who before October 1, 1943, was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the Women's Army Auxiliary Corps or the Women's Army Corps shall be considered active duty for the purposes of all laws administered by the Veterans' Administration.

(2) Any person entitled to compensation or pension by reason of this subsection and to employees' compensation based upon the same service under the Federal Employees' Compensation Act must elect which benefit she will receive.

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of his local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and

who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-connection of a disability under chapter 17 of this title, be considered to have

been on active duty and to have incurred such disability in the active military, naval, or air service.

(c) For the purposes of this title, whenever an individual is discharged or released after December 31, 1956, from a period of active duty he shall be deemed to continue on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to be required for him to proceed to his home by the most direct route, and in any event, until midnight of the date of such discharge or release.

(d) For the purposes of this title, any individual—

(1) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) who is disabled or dies from an injury incurred after December 31, 1956, by him while proceeding directly to or returning directly from such active duty for training or inactive duty training, as the case may be;

shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not he was disabled or died from injury so incurred, the Administrator shall take into account the hour on which he began so to proceed or to return; the hour on which he was scheduled to arrive for, or on which he ceased to perform, such duty; the method of travel employed; his itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

## PART II—GENERAL BENEFITS

### Chapter 13—Dependency and Indemnity Compensation for Service-Connected Deaths<sup>28</sup>

#### Subchapter I—General

#### § 401. Definitions

As used in this chapter—

(1) The term “basic pay” means the monthly pay prescribed by sections 232 (a), 232 (e), or 308 of Title 37, as may be appropriate, for a member of a uniformed service on active duty.

(2) The term “veteran” includes a person who died in the active military, naval, or air service.

#### § 402. Computation of basic pay

(a) With respect to a veteran who died in the active military, naval, or air service, his basic pay shall be that prescribed on January 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service as that of the deceased veteran at the time of his death.

<sup>28</sup> These provisions of Chapter 13 of Title 38, U. S. C., were compiled by the Veterans Administration.

(b) With respect to a veteran who did not die in the active military, naval, or air service, his basic pay shall be that prescribed on January 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service as that of the deceased veteran—

(1) at the time of his last discharge or release from active duty under conditions other than dishonorable; or

(2) at the time of his discharge or release from any period of active duty for training or inactive duty training, if his death results from service-connected disability incurred during such period and if he was not thereafter discharged or released under conditions other than dishonorable from active duty.

(c) (1) The basic pay of any veteran described in section 106 (b) of this title shall be that to which he would have been entitled upon final acceptance or entry upon active duty.

(2) The basic pay of any person not otherwise described in this section, but who had a compensable status on the date of his death under laws administered by the Veterans' Administration, shall be determined by the head of the department under which such person performed the services by which he obtained such status (taking into consideration his duties, responsibilities, and years of service) and certified to the Administrator. For the purposes of this chapter, such person shall be deemed to have been on active duty while performing such services.

#### **§ 403. Coverage of members of Reserve Officers' Training Corps**

For the purposes of this chapter and section 722 of this title, annual training duty to which ordered for a period of fourteen days or more by a member of a Reserve Officers' Training Corps, and authorized travel to or from such duty, shall be deemed to be active military, naval, or air service. The basic pay of any such member shall be considered to be the monthly pay of a person having the rank and years of service of those members of a uniformed service to which such member's pay is assimilated.

#### **§ 404. Special provisions relating to widows**

No dependency and indemnity compensation shall be paid to the widow of a veteran dying after December 31, 1956, unless she was married to him—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for five or more years; or

(3) for any period of time if a child was born of the marriage.

### **Subchapter II—Dependency and Indemnity Compensation**

#### **§ 410. Deaths entitling survivors to dependency and indemnity compensation**

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to his widow, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b) Dependency and indemnity compensation shall not be paid to the widow, children, or parents of any veteran dying after December 31, 1956, unless he (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing his death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

#### **§ 411. Dependency and indemnity compensation to a widow**

(a) Dependency and indemnity compensation shall be paid to a widow at a monthly rate equal to \$112 plus 12 per centum of the basic pay of her deceased husband.

(b) If there is a widow and two or more children below the age of eighteen of a deceased veteran, and—

(1) the total of the monthly benefits to which such widow and children are (or would be, upon the filing of an application) entitled on the basis of such deceased veteran's status under the laws referred to in subsection (d);

is less than

(2) the amount described in subsection (c);

then the dependency and indemnity compensation paid monthly to the widow shall be increased by \$25 for each such child in excess of one; however, the total of increases under this subsection shall not exceed the difference between the amounts referred to in subparagraphs (1) and (2) of this subsection.

(c) If the amount determined under subsection (a), after increase (if any) under subsection (b), involves a fraction of a dollar, the amount payable shall be increased by the Administrator to the next higher dollar.

(d) The laws referred to in subsection (b) (1) are—

(1) section 412 of this title;

(2) section 402 of title 42 (including the reduction provisions of subsection (a) of section 403 of title 42, but without regard to the deduction provisions of section 403); and

(3) section 228e of title 45 (including the reduction provisions of section 228c-1 (i) and 228e (h) of title 45).

(e) The amount referred to in subsection (b) (2) is an amount equal to the total of the monthly benefits to which a widow and two children of a deceased fully and currently insured individual would be entitled under section 402 of title 42 (after reduction under subsection (a) of section 403 of title 42 but without regard to deduction provisions of section 403) if such deceased individual's average monthly wage had been \$160.

(f) The amount referred to in subsection (b) (1) shall be determined by the Secretary of Health, Education, and Welfare, or the Railroad Retirement Board, as the case may be, and shall be certified to the Administrator upon his request.

#### **§ 412. Benefits in certain cases of in-service or service-connected deaths**

In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 414 of title 42) at the time of his death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 402 of title 42 on the basis of his wages and self-employment income but who would, upon application therefor, be entitled to such benefits if he had been fully and currently insured at the time of his death;

the Administrator shall pay for such month benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under subchapter II of chapter 7 of title 42, if such veteran had been both fully and currently insured at the time of his death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Administrator.

\* \* \* \* \*

#### § 417. Restriction on payments under this chapter

(a) No dependency and indemnity compensation shall be paid to the widow, children, or parents of any veteran dying after April 30, 1957, having in effect at the time of death a policy of United States Government life insurance or National Service Life Insurance under waiver of premiums under section 724 of this title, unless waiver of premiums on such policy was granted pursuant to the first proviso of section 622 (a) of the National Service Life Insurance Act of 1940, and the death occurs before the veteran's return to military jurisdiction or within one hundred and twenty days thereafter. Where dependency and indemnity compensation is not payable by reason of the preceding sentence, death compensation may be paid under section 321 or 341 of this title, as applicable.

(b) No person eligible for dependency and indemnity compensation by reason of any death occurring after December 31, 1956, shall be eligible by reason of such death for any payments under (1) provisions of law administered by the Veterans' Administration providing for the payment of death compensation or death pension, or (2) the Federal Employees' Compensation Act.

### Subchapter III—Certifications

#### § 421. Certifications with respect to basic pay

(a) The Secretary concerned shall, at the request of the Administrator, certify to him the basic pay, considering rank or grade and cumulative years of service for pay purposes, of deceased persons with respect to whose deaths applications for benefits are filed under this chapter. The certification of the Secretary concerned shall be binding upon the Administrator.

(b) Whenever basic pay (as defined in section 401 of this title) is increased or decreased, basic pay determined pursuant to this chapter shall increase or decrease accordingly.

**§ 422. Certifications with respect to social security entitlement**

(a) Determinations required by section 412 of this title (other than a determination required by section 412 (2) of this title) as to whether any survivor described in section 412 (3) of this title of a deceased individual would be entitled to benefits under section 402 of title 42 for any month and as to the amount of the benefits which would be paid for such month, if the deceased veteran had been a fully and currently insured individual at the time of his death, shall be made by the Secretary of Health, Education, and Welfare, and shall be certified by him to the Administrator upon request of the Administrator.

(b) Upon the basis of estimates made by the Secretary of Health, Education, and Welfare after consultation with the Administrator, the Administrator shall pay to the Secretary an amount equal to the costs which will be incurred in making determinations and certifications under subsection (a). Such payments shall be made with respect to the costs incurred during such period (but not shorter than a calendar quarter) as the Secretary and the Administrator may prescribe. The amount payable for any period shall be increased or reduced to compensate for any underpayment or overpayment, as the case may be, of the costs incurred in any preceding period.

(c) Except with respect to determinations made under subsection (a) of this section, the Administrator shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 412 of this title.

**Chapter 23—Burial Benefits****§ 902. Funeral expenses**

(a) Where a veteran dies who—

(1) was a veteran of any war;

(2) had been discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or

(3) was in receipt of, or but for the receipt of retirement pay would have been entitled to, disability compensation;

the Administrator, in his discretion having due regard to the circumstances in each case, may pay a sum not exceeding \$250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of his death, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States or of a State, the employer of the deceased veteran, or a burial association. No claim shall be allowed for more than the difference between the entire amount of the expenses incurred, and the amount paid by any or all of the foregoing. The Administrator shall not deny or reduce the amount of the burial allowance otherwise payable because of a cash contribution made by a burial association to any person other than the person rendering burial and funeral services. The burial allowance or any part thereof

shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

### § 903. Death in Veterans' Administration facility

(a) Where death occurs in a Veterans' Administration facility to which the deceased was properly admitted for hospital or domiciliary care under authority of section 610 or 611 (a) of this title, the Administrator shall pay the actual cost (not to exceed \$250) of the burial and funeral.

(b) In addition to the foregoing, when such a death occurs in the continental United States, the Administrator shall transport the body to the place of burial in the United States, or to the place of burial within Alaska if the deceased was a resident of Alaska who had been brought to the United States as a beneficiary of the Veterans' Administration for hospital or domiciliary care. Where such a death occurs in a Territory, a Commonwealth, or a possession of the United States, the Administrator shall transport the body to the place of burial within such Territory, Commonwealth, or possession.

(c) Within the limits prescribed in subsection (a), the Administrator may make contracts for burial and funeral services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration.

### § 904. Claims for reimbursement

Applications for payments under section 902 of this title must be filed within two years after the burial of the veteran. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowance may be paid.

## PART III—READJUSTMENT AND RELATED BENEFITS

### Chapter 41—Unemployment Benefits for Veterans<sup>29</sup>

#### SUBCHAPTER I—UNEMPLOYMENT COMPENSATION

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<sup>29</sup> Chapter 41 has been compiled by the United States Department of Labor. This Chapter was previously Title IV of the Veterans' Readjustment Assistance Act of 1952 (66 Stat. 663). It was incorporated in Title 38, United States Code, Veterans' Benefits, by P. L. 85-857, approved September 2, 1958.



## Subchapter I—Unemployment Compensation

### § 2001. Compensation for veterans under State agreements

(a) The Secretary of Labor is authorized on behalf of the United States to enter into an agreement with any State, or with the agency administering the unemployment compensation law of such State, under which such State agency (1) will make, as agent of the United States, payments of unemployment compensation to Korean conflict veterans, in accordance with the provisions of this chapter, and (2) will otherwise cooperate with the Secretary, and with other State agencies, in making payments of unemployment compensation under this chapter.

(b) Any such agreement shall, except as provided in section 2008 of this title, provide that unemployment compensation at the rate of \$26 per week will be paid by the State to any Korean conflict veteran in such State with respect to weeks of unemployment (not in excess of a total of twenty-six weeks). If a Korean conflict veteran is eligible to receive mustering-out payment under section 2102 of this title, he shall not be eligible to receive unemployment compensation under this chapter with respect to weeks of unemployment completed within thirty days after his discharge or release, if he receives \$100 in such mustering-out payment; within sixty days after his discharge or release if he receives \$200 in such mustering-out payment; or within ninety days after his discharge or release if he receives \$300 in such mustering-out payment.

(c) Any such agreement shall provide that any determination by a State agency with respect to entitlement to unemployment compensation pursuant to an agreement under this section shall be made in accordance with the State unemployment compensation law, insofar as such law is applicable, and shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

(d) Each agreement shall provide the terms and conditions upon which it may be amended or terminated.

(e) Each agreement entered into pursuant to title IV of the Veterans' Readjustment Assistance Act of 1952 shall be deemed to have been entered into pursuant to this chapter.

(f) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the Coast and Geodetic Survey, or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title IV of the Veterans' Readjustment Assistance Act of 1952.

### § 2002. Unemployment compensation in absence of State agreements

(a) In the case of a Korean conflict veteran who is in a State which has no agreement under this chapter with the Secretary of Labor, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for unemployment compensation under this subsection, make payments of unemployment compensation to him in the same amounts and for the same periods

as provided in section 2001 (b) of this title. Any determination by the Secretary with respect to entitlement to unemployment compensation under this subsection shall be made in accordance with the State unemployment compensation law of the State in which the veteran is insofar as such law is applicable.

(b) In the case of a Korean conflict veteran who is in Puerto Rico or in the Virgin Islands, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for unemployment compensation under this subsection, make payments of unemployment compensation to him in the same amounts and for the same periods as provided in section 2001 (b) of this title. Any determination by the Secretary with respect to entitlement to unemployment compensation under this subsection shall be made in accordance with the unemployment compensation law of the District of Columbia insofar as such law is applicable.

(c) Any Korean conflict veteran whose claim for unemployment compensation under subsection (a) or (b) of this section has been denied shall be entitled to a fair hearing in accordance with regulations prescribed by the Secretary. Any final determination by the Secretary with respect to entitlement to unemployment compensation under this section shall be subject to review by the courts in the same manner and to the extent as is provided in section 405 (g) of title 42, with respect to final decisions of the Secretary of Health, Education, and Welfare under such title.

(d) The Secretary may utilize for the purposes of this section the personnel and facilities of the agencies in Puerto Rico and the Virgin Islands cooperating with the United States Employment Service under sections 49-49c, 49d-49k of title 29. For the purpose of payments made to such agencies under such Act, the furnishing of such personnel and facilities shall be deemed to be a part of the administration of the public employment offices of such agencies.

### **§ 2003. Payments to States**

(a) Each State shall be entitled to be paid by the United States an amount equal to payments of unemployment compensation made by such State under and in accordance with an agreement under this chapter.

(b) In making payments pursuant to subsection (a) of this section there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, such sum as the Secretary estimates the State will be entitled to receive under this chapter for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

(c) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State sums payable to such State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds for carrying out the purposes of this chapter.

(d) All money paid to a State under this chapter shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this chapter, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this chapter may be made.

(e) An agreement under this chapter may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

(f) No person designated by the Secretary, or designated pursuant to an agreement under this chapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any unemployment compensation certified by him under this chapter.

(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by the State agency of such State pursuant to an agreement under this chapter shall be deemed to be a part of the administration of the State unemployment compensation law.

#### § 2004. Information

(a) All Federal departments and agencies shall make available to State agencies which have agreements under this chapter or to the Secretary, as the case may be, such information with respect to military service of any veteran as the Secretary may find practicable and necessary for the determination of such veteran's entitlement to unemployment compensation under this chapter.

(b) The agency administering the unemployment compensation law of any State shall furnish to the Secretary such information as the Secretary may find necessary or appropriate in carrying out the provisions of this chapter, and such information shall be deemed reports required by the Secretary for the purposes of paragraph (6) of subsection (a) of section 503 of title 42.

#### § 2005. Penalties

(a) Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under this chapter or under an agreement thereunder shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(b) Any person who makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false or knowingly fails, or causes another to fail, to disclose a material fact, and, as a result thereof, has received any amount as unem-

ployment compensation under this chapter to which he was not entitled, shall be liable to repay such amount to the State agency or the Secretary of Labor, as the case may be, for the fund from which the amount was paid or, in the discretion of the State agency or the Secretary, as the case may be, to have such amount deducted from any future unemployment compensation payable to him under this chapter within the two-year period following the finding, if the existence of such nondisclosure or misrepresentation has been found by a court of competent jurisdiction or in connection with a reconsideration or appeal.

### § 2006. Regulations

The Secretary is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this chapter. The Secretary shall, insofar as practicable, consult with representatives of the State unemployment compensation agencies before prescribing any rules or regulations which may affect the performance by such agencies of functions pursuant to agreements under this chapter.

### § 2007. Definitions

When used in this subchapter—

(a) The term "Korean conflict veteran" means any person who has served in the active service in the Armed Forces at any time on or after June 27, 1950, and before February 1, 1955, and who has been discharged or released from such active service under conditions other than dishonorable after continuous service of ninety days or more, or by reason of an actual service-incurred injury or disability.

(b) The term "unemployment compensation" means the money payments to individuals with respect to their unemployment.

(c) The term "State" includes Hawaii, Alaska, Puerto Rico, the Virgin Islands, and the District of Columbia.

### § 2008. Nonduplication of benefits

(a) Notwithstanding any other provision of this chapter, no payment shall be made under any agreement under this chapter, or, in the absence of such an agreement, by the Secretary under this chapter to a veteran—

(1) for any week or any part of a week he is eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) to receive unemployment benefits at a rate equal to or in excess of \$26 per week under any Federal or State unemployment compensation law;

(2) for any period with respect to which he receives an education and training allowance under subsection (a), (b), (c) or (d) of section 1632 of this title or a subsistence allowance under chapter 31 of this title or section 12 (a) of the Act enacting this title; or

(3) for any period he receives additional compensation necessary for his maintenance under section 756 (b) (2) of title 5.

(b) In any case in which, for any week or any part of a week, a veteran is eligible for payment of unemployment compensation under this chapter and is also eligible (or would be eligible except for the

provisions of this chapter or except for any action taken by such veteran under this chapter) to receive for such week or such part of a week unemployment benefits at a rate of less than \$26 per week under any Federal or State unemployment compensation law, such veteran may elect to receive payment of unemployment compensation under this chapter; but if the veteran so elects, the amount of unemployment compensation payable under this chapter shall be reduced by the amount of such unemployment compensation benefits for which such veteran is eligible (or would be eligible except for the provisions of this chapter or except for any action taken by such veteran under this chapter) under such Federal or State unemployment compensation law.

(c) If the veteran elects under subsection (b) to receive payment of unemployment compensation under this chapter, he shall be entitled to unemployment compensation at the rate of \$26 per week after the exhaustion of State unemployment benefits until the total unemployment compensation received under this chapter and title IV of the Veterans' Readjustment Assistance Act of 1952 equals \$676.

(d) Under no circumstances shall any veteran receive unemployment compensation under this chapter and title IV of the Veterans' Readjustment Assistance Act of 1952 from more than one State at one time or in a total amount in excess of \$676.

#### **§ 2009. Terminations**

(a) No unemployment compensation shall be paid under this chapter for any benefit week which begins more than three years after the effective date of the discharge or release prescribed in section 2007 (a) of this title.

(b) In no event shall unemployment compensation be paid under this chapter for any benefit week which begins after January 31, 1960.

### **Subchapter II—Employment Service for Veterans**

#### **§ 2010. Purpose**

The Congress declares as its intent and purpose that there shall be an effective job counseling and employment placement service for veterans of any war, and that, to this end, policies shall be promulgated and administered, so as to provide for them the maximum of job opportunity in the field of gainful employment.

#### **§ 2011. Assignment of veterans' employment representative**

The Secretary of Labor shall assign to each of the States a veterans' employment representative, who shall be a veteran of any war, who at the time of appointment shall have been a bona fide resident of the State for at least two years, and who shall be appointed in accordance with the civil-service laws, and whose compensation shall be fixed in accordance with the Classification Act of 1949. Each such veterans' employment representative shall be attached to the staff of the public employment service in the State to which he has been assigned. He shall be administratively responsible to the Secretary of Labor, for the execution of the Secretary's veterans' placement policies through the public employment service in the State. In cooperation with the public employment service staff in the State, he shall—

(1) be functionally responsible for the supervision of the registration of veterans of any war in local employment offices for suitable types of employment and for placement of veterans of any war in employment;

(2) assist in securing and maintaining current information as to the various types of available employment in public works and private industry or business;

(3) promote the interests of employers in employing veterans of any war;

(4) maintain regular contact with employers and veterans' organizations with a view of keeping employers advised of veterans of any war available for employment and veterans of any war advised of opportunities for employment; and

(5) assist in every possible way in improving working conditions and the advancement of employment of veterans of any war.

### **§ 2012. Employees of local offices**

Where deemed necessary by the Secretary of Labor, there shall be assigned by the administrative head of the employment service in the State one or more employees, preferably veterans of any war, of the staffs of local employment service offices, whose services shall be primarily devoted to discharging the duties prescribed for the veterans' employment representative.

### **§ 2013. Cooperation of Federal agencies**

All Federal agencies shall furnish the Secretary such records, statistics, or information as may be deemed necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment opportunities for veterans of any war.

### **§ 2014. Estimate of funds for administration**

The Secretary shall estimate the funds necessary for the proper and efficient administration of this subchapter; such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel and communications. Sums thus estimated shall be included as a special item in the annual budget of the Bureau of Employment Security. Any funds appropriated pursuant to this special item as contained in the budget of the Bureau of Employment Security shall not be available for any purpose other than that for which they were appropriated, except with the approval of the Secretary.

## **PART IV. GENERAL ADMINISTRATIVE PROVISIONS**

### **Chapter 51—Applications, Effective Dates, and Payments<sup>30</sup>**

#### **Subchapter I—Applications**

### **§ 3001. Claims and forms**

(a) A specific claim in the form prescribed by the Administrator (or jointly with the Secretary of Health, Education, and Welfare, as prescribed by section 3005 of this title) must be filed in order for

<sup>30</sup> The provisions of Chapter 51 of Title 38, U. S. C., were compiled by the Veterans' Administration.

benefits to be paid or furnished to any individual under the laws administered by the Veterans' Administration.

\* \* \* \* \*

### **§ 3005. Joint applications for social security and dependency and indemnity compensation**

The Administrator and the Secretary of Health, Education, and Welfare shall jointly prescribe forms for use by survivors of members and former members of the uniformed services in filing application for benefits under chapter 13 of this title and subchapter II of chapter 7 of title 42. Each such form shall request information sufficient to constitute an application for benefits under both chapter 13 of this title and subchapter II of chapter 7 of title 42; and when an application of such form has been filed with either the Administrator or the Secretary of Health, Education, and Welfare, it shall be deemed to be an application for benefits under both chapter 13 of this title and subchapter II of chapter 7 of title 42. A copy of each such application filed with the Administrator, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Administrator with such application, and which may be needed by the Secretary in connection therewith, shall be transmitted by the Administrator to the Secretary; and a copy of each such application filed with the Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary with such form, and which may be needed by the Administrator in connection therewith, shall be transmitted by the Secretary to the Administrator. The preceding sentence shall not prevent the Secretary and the Administrator from requesting the applicant, or any other individual, to furnish such additional information as may be necessary for purposes of chapter 13 of this title and subchapter II of chapter 7 of title 42, respectively.

## **Chapter 53—Special Provisions Relating to Benefits<sup>81</sup>**

\* \* \* \* \*

### **§ 3101. Nonassignability and exempt status of benefits**

(a) Payments of benefits due or to become due under any law administered by the Veterans' Administration shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity.

(b) This section shall prohibit the collection by setoff or otherwise out of any benefits payable pursuant to any law administered by the

<sup>81</sup> This provision of Chapter 53 of Title 38, U. S. C., was compiled by the Veterans' Administration.

Veterans' Administration and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (1) any person other than the indebted beneficiary or his estate; or (2) any beneficiary or his estate except amounts due the United States by such beneficiary or his estate by reason of overpayments or illegal payments made under such laws to such beneficiary or his estate or to his dependents as such. If the benefits referred to in the preceding sentence are insurance payable by reason of yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance issued by the United States, the exemption provided in this section shall not apply to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness is in the form of liens to secure unpaid premiums or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits.

(c) Notwithstanding subsection (a), payments of benefits under laws administered by the Veterans' Administration shall not be exempt from levy under subchapter D of chapter 64 of the Internal Revenue Code of 1954 (relating to seizure of property for collection of taxes).

## IMMIGRATION AND NATIONALITY ACT (66 STAT. 204)

\* \* \* \* \*

### CHAPTER 5—DEPORTATION ; ADJUSTMENT OF STATUS

#### GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 241. (a) Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry;

(2) entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this Act or in violation of any other law of the United States;

\* \* \* \* \*

(4) is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or confined therefor in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial;

(5) has failed to comply with the provisions of section 265 unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 266 (c) of this title, or under



section 36 (c) of the Alien Registration Act, 1940, or has been convicted of violating or conspiracy to violate any provision of the Act entitled "An Act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes", approved June 8, 1938, as amended, or has been convicted under section 1546 of title 18 of the United States Code;

(6) is or at any time has been, after entry, a member of any of the following classes of aliens:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States; (ii) any other totalitarian party of the United States; (iii) the Communist Political Association; (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches

(i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(7) is engaged, or at any time after entry has engaged, or at any time after entry has had a purpose to engage, in any of the activities described in paragraph (27) or (29) of section 212 (a), unless the Attorney General is satisfied, in the case of any alien within category (C) of paragraph (29) of such section, that such alien did not have knowledge or reason to believe at the time such alien became a member of, affiliated with, or participated in the activities of the organization (and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950 have such knowledge or reason to believe) that such organization was a Communist organization;

\* \* \* \* \*

(10) entered the United States from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory transportation company under section 238 (a) and was without the required period of stay in such foreign contiguous territory or adjacent islands following such arrival (other than an alien who is a native-born citizen of any

of the countries enumerated in section 101 (a) (27) (C) and an alien described in section 101 (a) (27) (B));

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, any salt derivative or preparation of opium or coca leaves or isonipeccaine or any addiction-forming or addiction-sustaining opiate;

(12) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in paragraph (12) of section 212 (a); or is or at any time after entry has been the manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

\* \* \* \* \*

(14) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any weapon which shoots or is designed to shoot automatically or semiautomatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun;

(15) at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940;

(16) at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act 1940; or

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; sections 791, 792, 793, 794, 2388, and 3241, title 18, United States Code; an Act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes", approved October 6, 1917; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918; section 215 of this Act; an Act entitled "An

Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918; sections 2151, 2153, 2154, 2155, and 2156 of title 18, United States Code; an Act entitled "An Act to authorize the President to increase temporarily the Military establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948; the Universal Military Training and Service Act; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917; section 871 of title 18, United States Code; an Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes", approved October 6, 1917, or any amendment thereof; the Trading With the Enemy Act; section 6 of the Penal Code of the United States; section 2384 of title 18, United States Code; has been convicted of any offense against section 13 of the Penal Code of the United States committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, in aid of a belligerent in the European war; section 960 of title 18, United States Code; or

(18) has been convicted under section 278 of this Act or under section 4 of the Immigration Act of February 5, 1917.

\* \* \* \* \*

#### CENTRAL FILE; INFORMATION FROM OTHER DEPARTMENTS AND AGENCIES

SEC. 290. (a) The Federal Security Administrator<sup>82</sup> shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Administrator shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

### INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT (59 STAT. 669)

SECTION 1. For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemp-

<sup>82</sup> See "Administration of the Social Security Act," under Preface, p. III, for change to Secretary of Health, Education, and Welfare.

tions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

\* \* \* \* \*

SEC. 5. (b) No tax shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to Services rendered prior to January 1, 1946, which are described in paragraph (16) of sections 1426 (b) and 1607 (c) of the Internal Revenue Code, as amended, and any such tax heretofore collected (including penalty and interest with respect thereto, if any) shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payment shall be made under title II of the Social Security Act with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of section 209 (b) of such Act, as amended.

### TRADING WITH THE ENEMY ACT OF 1917 (40 STAT. 411)

SEC. 36. (a) The vesting in or transfer to the Alien Property Custodian of any property or interest (other than any property or interest acquired by the United States prior to December 18, 1941), or the receipt by him of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period prior or subsequent to the date of such vesting or transfer, nor render applicable the exemptions provided in title II of the Social Security Act with respect to service performed in the employ of the United States Government or of any instrumentality of the United States.

### PUBLIC LAW 769, 83D CONG. (68 STAT. 1142)

AN ACT TO PROHIBIT PAYMENT OF ANNUITIES TO OFFICERS AND  
EMPLOYEES OF THE UNITED STATES CONVICTED OF CERTAIN  
OFFENSES, AND FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled, That:*

There shall not be paid to any person convicted prior to, on, or after the date of enactment of this Act of any of the following offenses described in this section, or to the survivor or beneficiary of such per-

son so convicted, for any period subsequent to the date of such conviction or the date of enactment of this Act, whichever is later, any annuity or retired pay on the basis of the service of such person as an officer or employee of the Government:

(1) Any offense defined in section 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 216, 217, 218, 219, 220, 221, 222, or 223 of chapter 11 (relating to bribery and graft), section 281, 282, 283, 284, 285, 286, or 287 of chapter 15 (relating to claims and services in matters affecting government), section 434, 435, 436, 441, 442, or 443 of chapter 23 (relating to contracts), chapter 37 (relating to espionage and censorship), section 1700, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1711, or 1712 of chapter 83 (relating to offenses involving the postal service), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18 of the United States Code or in section 10 or 16 of the Atomic Energy Act of 1946 (42 U. S. C., secs. 1810 and 1816);

(2) Any offense (not including any offense within the purview of section 13 of title 18 of the United States Code) which is a felony under the laws of the United States or of the District of Columbia (A) committed in the exercise of his authority, influence, power, or privileges as an officer or employee of the Government, or (B) committed after the termination of his service as an officer or employee of the Government but directly involving, directly resulting from, or directly relating to, the improper exercise of his authority, influence, power, or privileges during any period of his service as such an officer or employee;

(3) Perjury committed under the laws of the United States or of the District of Columbia (A) in falsely denying the commission of an act which constitutes any of the offenses described in paragraph (1) or (2) of this section, (B) in falsely testifying before any Federal grand jury or court of the United States with respect to his service as an officer or employee of the Government, or (C) in falsely testifying before any congressional committee in connection with any matter under inquiry before such congressional committee; or subornation of perjury committed in connection with the false denial or false testimony of another person as specified in this paragraph;

(4) Any offense defined in section 833, 861, or 862 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (31 Stat. 1325, 1330; D. C. Code, 1951 edition, secs. 22-1201, 22-701, 22-703); or in the second paragraph under the subheading "FOR EXECUTIVE OFFICE" under the caption "GENERAL EXPENSES" in the first section of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes", approved July 1, 1902 (32 Stat. 591; D. C. Code, 1951 edition, sec. 22-702).

SEC. 2. (a) There shall not be paid to any person who has failed or refused, or fails or refuses, prior to, on, or after the date of enactment of this Act, upon the ground of self-incrimination, to appear, testify, or produce any book, paper, record, or other document, with respect to his service as an officer or employee of the Government or with respect to any relationship which he has had or has with a foreign government, in any proceeding before a Federal grand jury, court of

the United States, or congressional committee, or to the survivor or beneficiary of such person, for any period subsequent to the date of such failure or refusal of such person or the date of enactment of this Act, whichever is later, any annuity or retired pay on the basis of the service of such person as an officer or employee of the Government.

(b) There shall not be paid to any person who, prior to, on, or after the date of enactment of this Act, knowingly and willfully has made or makes any false, fictitious, or fraudulent statement or representation, or who, prior to, on, or after such date, has concealed or conceals any material fact, with respect to his—

(1) past or present membership in, affiliation or association with, or support of the Communist Party, or any chapter, branch, or subdivision thereof, in or outside the United States, or any other organization, party, or group advocating (A) the overthrow, by force, violence, or other unconstitutional means, of the Government of the United States, (B) the establishment in the United States of a Communist totalitarian dictatorship, or (C) the right to strike against the Government of the United States;

(2) conviction of any offense described in the first section of this Act; or

(3) failure or refusal to appear, testify, or produce any book, paper, record, or other document as specified in subsection (a) of this section,

for any period subsequent to the date of enactment of this Act or the date on which any such statement, representation, or concealment of fact is made or occurs, whichever is later, in connection with his application for an office or position in or under the executive, legislative, or judicial branch of the Government of the United States or the government of the District of Columbia, or to the survivor or beneficiary of such person, any annuity or retired pay on the basis of the service of such person as an officer or employee of the Government.

(c) In any case in which, after the date of enactment of this subsection, any person under indictment for any offense within the purview of the first section of this Act willfully remains outside the United States, its Territories, and possessions, for a period in excess of one year with knowledge of such indictment, no annuity or retired pay shall be paid, for any period subsequent to the end of such one-year period to such person or to the survivor or beneficiary of such person, on the basis of the service of such person, as an officer or employee of the Government unless and until a nolle prosequi to the entire indictment is entered upon the record or such person returns and thereafter the indictment is dismissed or after trial by court the accused is found not guilty of the offense or offenses charged in the indictment.

Sec. 3. Any amounts contributed by any such person toward the annuity the benefits of which are denied under this Act, less any sums previously refunded or paid as annuity benefits, shall be returned to such person, upon appropriate application therefor, with interest to the date of his conviction of any offense described in the first section of this Act or of the commission by him of any violation of section 2 of this Act, as the case may be, or the date of enactment of this Act,

whichever is later, at such rates as may be provided in the case of refunds under the law, regulation, or agreement under which the annuity is payable, or if no such rates are so provided at the rate of 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year. Such person shall not be required to repay any annuity properly received by him which is in excess of the amount of his own contributions with interest. In the event a person entitled to a refund under this section dies prior to the making of such refund, the refund shall be made to such person or persons as may be provided in the case of refunds under the law, regulation, or agreement under which the annuity the benefits of which are denied under this Act is payable or, if no such provision is made, in the order of preference prescribed in section 12 (e) of the Civil Service Retirement Act of 1930, as amended.

SEC. 4. The right to receive an annuity or retired pay shall be deemed restored to any person convicted, prior to, on, or after the date of enactment of this Act, of an offense which is specified in the first section of this Act or which constitutes a violation of section 2 of this Act, for which he is denied an annuity or retired pay, to whom a pardon of such offense is granted by the President of the United States, prior to, on, or after the date of enactment of this Act, and to the survivor or beneficiary of such person. Such restoration of the right to receive an annuity or retired pay shall be effective as of the date on which such pardon is granted. Any amounts refunded to such person under section 3 of this Act shall be redeposited before credit is allowed for the period or periods of service covered by the refund. No payment of annuity or retired pay shall be made for any period prior to the date on which such pardon is granted.

SEC. 5. No accountable officer of the Government of the United States or of the government of the District of Columbia shall be held responsible for payments made in violation of the first section or section 2 of this Act when such payments are made in due course and without negligence.

SEC. 6. As used in this Act—

(1) The term "officer or employee of the Government" includes an officer or employee in or under the legislative, executive, or judicial branch of the Government of the United States, a Member of or Delegate to Congress, a Resident Commissioner, an officer or employee of the government of the District of Columbia, and a member or former member of the Armed Forces of the United States, including the Regular and Reserve components thereof, the Fleet Reserve, the Fleet Marine Corps Reserve, the Coast and Geodetic Survey, and the Public Health Service.

(2) The term "annuity" means any retirement benefit (other than any benefit provided under laws administered by the Veterans' Administration) payable by any department or agency of the Government of the United States or the government of the District of Columbia upon the basis of service as a civilian officer or employee, except that such term does not include salary or compensation which may not be diminished under section 1 of article III of the Constitution or, in the case of a benefit payable under the Social Security Act, as amended, any portion of such benefit not based upon service as an officer or employee of the Government



of the United States or the government of the District of Columbia. The term "annuity" does not include any retirement benefit of any person to whom such benefit has been awarded or granted prior to the date of enactment of this Act insofar as concerns the conviction of such person, prior to such date, of any offense specified in the first section of this Act, or the commission by such person, prior to such date, of any violation of section 2 of this Act.

(3) The term "retired pay" means retired pay, retirement pay, retainer pay, or equivalent pay (other than any benefit provided under laws administered by the Veterans' Administration), payable under any law of the United States to members or former members of the Armed Forces of the United States, including the Regular and Reserve components thereof and the Fleet Reserve and the Fleet Marine Corps Reserve, the Coast and Geodetic Survey, and the Public Health Service. The term "retired pay" does not include the retired pay, retirement pay, retainer pay, or equivalent pay of any person to whom any such pay has been awarded or granted prior to the date of enactment of this Act insofar as concerns the conviction of such person, prior to such date, of any offense specified in the first section of this Act, or the commission by such person, prior to such date, of any violation of section 2 of this Act.

\* \* \* \* \*

SEC. 10. \* \* \* (b) The amendment made by subsection (a) shall be effective with respect to offenses (1) committed on or after the date of enactment of this Act, or (2) committed prior to such date, if on such date prosecution therefor is not barred by provisions of law in effect prior to such date.

Approved September 1, 1954.

## VOCATIONAL REHABILITATION AMENDMENTS OF 1954<sup>33</sup> (68 STAT. 652)

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### STATE PLANS

SEC. 5. (a) To be approvable under this Act, a State plan for vocational rehabilitation services shall—

\* \* \* \* \*

(10) provide for entering into cooperative arrangements with the system of public employment offices in the State and the maximum utilization of the job placement and employment counseling services and other services and facilities of such offices; and

\* \* \* \* \*

### PROMOTION OF EMPLOYMENT OPPORTUNITIES

SEC. 8. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall cooperate in developing, and in recommending

<sup>33</sup> Compiled by the United States Department of Labor.

to the appropriate State agencies, policies and procedures which will facilitate the placement in employment of handicapped individuals who have received rehabilitation services under State vocational rehabilitation programs, and, together with the chairman of the President's Committee on Employment of the Physically Handicapped, shall develop and recommend methods which will assure maximum utilization of services which that committee, and cooperating State and local organizations, are able to render in promoting job opportunities for such individuals.

**THE ACT APPROVED MAY 26, 1948, AS AMENDED  
(62 STAT. 274)**

AN ACT TO AMEND THE ACT ENTITLED "AN ACT TO ESTABLISH CIVIL AIR PATROL AS A CIVILIAN AUXILIARY OF THE UNITED STATES AIR FORCE AND TO AUTHORIZE THE SECRETARY OF THE AIR FORCE TO EXTEND AID TO CIVIL AIR PATROL IN THE FULFILLMENT OF ITS OBJECTIVES, AND FOR OTHER PURPOSES"

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

The Act approved May 26, 1948 (62 Stat. 274), entitled "An Act to establish Civil Air Patrol as a civilian auxiliary of the United States Air Force and to authorize the Secretary of the Air Force to extend aid to Civil Air Patrol in the fulfillment of its objectives, and for other purposes", is hereby amended by adding thereto the following new sections:

"SEC. 3. (a) Volunteer civilian members of Civil Air Patrol, except Civil Air Patrol Cadets, shall, for the purpose of administration of the Federal Employees' Compensation Act, be deemed to be civilian employees of the United States within the meaning of the term 'employee' as defined in section 40 of that Act, and the provisions of that Act shall apply to them in all respects, subject to the remaining provisions of this section.

"(b) In administering that Act for members covered by this section—

"(1) the monthly pay of such member shall, for the purpose of computing compensation for disability or death, be considered to be \$300;

"(2) the percentages applicable to payments under section 10 of that Act are—

"(A) 45 per centum for clause (C) of that section, in any case where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that clause;

"(B) 20 per centum for clause (D) of that section, for one child and 10 per centum additional for each additional child, but not more than a total of 75 per centum, in any case where the member died fully or currently insured under title II of the Social Security Act; and

"(C) 25 per centum for clause (E) of that section, if one parent was wholly dependent for support upon the deceased

member at the time of his death and the other was not dependent to any extent; 16 per centum to each, if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

“(3) no payments may be made under clause (F) of that section;

“(4) the term ‘performance of duty’, as used in that Act, means only active service, and travel to and from such service, rendered in performance or support of operational missions of the Civil Air Patrol, under direction of the Department of the Air Force, and under written authorization by competent authority covering a specific assignment and prescribing a time limit for such assignment; and

“(5) the Secretary of Labor, or his designee, shall inform the Secretary of Health, Education, and Welfare whenever a claim is filed and eligibility for compensation is established under clause (C) or clause (D) of section 10 of that Act, and that Secretary shall then certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of his death.”

“(c) When a claim is filed, the Secretary of Labor or his designee may inform the Secretary of the Air Force or his designee, who shall advise, if so requested, the Secretary of Labor concerning the facts with respect to the injury, including the question whether at the time of injury the member of the Patrol was rendering service, or engaged in travel to or from such service, in performance or support of an operational mission of the Patrol: *Provided*, That this shall not be construed to dispense with the reports of the member’s immediate superior required under section 24, or other reports agreed upon under section 28a of that Act.

“(d) The provisions of this section shall be applicable as of May 20, 1941, in the cases of members of the Civil Air Patrol as it existed under and pursuant to Executive Order 8757 of May 20, 1941, as amended by Executive Order 9134 of April 15, 1942, and Executive Order 9339 of April 29, 1943: *Provided*, That the time limitations in that Act, in respect to notice of injury and claim for compensation, shall not begin to run until the date of enactment of this Act: *Provided further*, That no benefits under that Act shall accrue or be payable in any case for any period prior to the date of this Act, but this provision shall not bar the payment or reimbursement of medical and other expenses as authorized by sections 9 and 11 of that Act, if not otherwise paid or furnished by the United States: *Provided further*, That, with respect to services rendered prior to the enactment of this Act, the term ‘performance of duty’, as used in that Act, shall mean only active service, and travel to and from such service, rendered in performance or support of operational missions of the Civil Air Patrol, under direction of the Office of Civilian Defense, the Department of the Army (War), including the Army Air Forces, or the Department of the Air Force: *And provided further*, That the entitlement of any person to receive benefits from the United States under any other provision of law in effect prior

to the date of enactment of this Act for an injury or death for which benefits are authorized by this Act is hereby terminated."

\* \* \* \* \*

\* \* \* Approved August 3, 1956

## ACT OF APRIL 19, 1950

(P. L. 81-474)

(SEC. 9, RELATING TO NAVAJO AND HOPI INDIANS)

SEC. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under sections 3 (a), 403 (a), and 1003 (a) of the Social Security Act) an amount, in addition to the amounts prescribed to be paid to such State under such sections, equal to 80 per centum of the total amounts of contributions by the State toward expenditures during the preceding quarter by the State, under the State plans approved under the Social Security Act for old-age assistance, aid to dependent children, and aid to the needy blind, to Navajo and Hopi Indians residing within the boundaries of the State on reservations or on allotted or trust lands, with respect to whom payments are made to the State by the United States under sections 3 (a), 403 (a) and 1003 (a), respectively, of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such sections.

## THE WAGNER-PEYSER ACT <sup>34</sup>

Act of June 6, 1933 (48 Stat. 113), as Amended

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### UNITED STATES EMPLOYMENT SERVICE; BUREAU ESTABLISHED

SEC. 1. In order to promote the establishment and maintenance of a national system of public employment offices there is hereby created in the Department of Labor a bureau to be known as the United States Employment Service.

### OFFICERS AND EMPLOYEES

SEC. 2. The Secretary of Labor is authorized, without regard to the civil service laws, to appoint and, without regard to the Classification Act of 1949, to fix the compensation of one or more assistant directors

<sup>34</sup> This Act has been compiled by the United States Department of Labor.

and such other officers, employees, and assistants, and to make such expenditures (including expenditures for personnel services and rent at the seat of government and elsewhere and for lawbooks, books of reference, and periodicals) as may be necessary to carry out the provisions of this Act. In case of appointments for service in the veterans' employment service provided for in section 3 of this Act, the Secretary shall appoint only veterans of wars of the United States.

#### EMPLOYMENT OFFICES

SEC. 3.<sup>35</sup> (a) It shall be the province and duty of the bureau to promote and develop a national system of employment offices for men, women, and juniors who are legally qualified to engage in gainful occupations, including employment counseling and placement services for handicapped persons, to maintain a veterans' service to be devoted to securing employment for veterans, to maintain a farm placement service, to maintain a public employment service for the District of Columbia, and, in the manner hereinafter provided, to assist in establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof in which there shall be located a veterans' employment service. The bureau shall also assist in coordinating the public employment offices throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the several States.

(b) Whenever in this Act the word "State" or "States" is used, it shall be understood to include Hawaii, Alaska, Puerto Rico, Guam, and the Virgin Islands.<sup>36</sup>

#### ACCEPTANCE BY STATES; CREATION OF STATE AGENCIES

SEC. 4. In order to obtain the benefit of appropriations apportioned under section 5, a State shall, through its legislature, accept the provisions of this Act and designate or authorize the creation of a State agency vested with all powers necessary to cooperate with the United States Employment Service under this Act.

#### APPROPRIATIONS; APPORTIONMENT AMONG STATES

SEC. 5. (a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amount from time to time as the Congress may deem necessary to carry out the purposes of this Act.

(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which (i), except in the

<sup>35</sup> Public Law 565, 83d Cong., amended the first sentence of subsec. 3 (a) by inserting after "gainful occupations", the phrase: "including employment counseling and placement services for handicapped persons."

<sup>36</sup> Sec. 3 (b), amended by Public Law 775 (81st Cong.), approved September 8, 1950, to include Puerto Rico and the Virgin Islands. Guam Organic Act, sec. 17, P. L. 896 (84th Congress) included Guam in sec. 3 (b) and sec. 5 (b).

case of Puerto Rico, Guam, and the Virgin Islands,<sup>37</sup> has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended, and (ii) is found to be in compliance with this Act, such amounts as the Secretary determines to be necessary for the proper and efficient administration of its public employment offices.<sup>38</sup>

#### STATE PLANS

SEC. 8.<sup>39</sup> Any State desiring to receive the benefits of this Act shall, by the agency designated to cooperate with the United States Employment Service, submit to the Secretary of Labor detailed plans for carrying out the provisions of this Act within such State. Such plans shall include provision for the promotion and development of employment opportunities for handicapped persons and for job counseling and placement of such persons, and for the designation of at least one person in each State or Federal employment office, whose duties shall include the effectuation of such purposes.<sup>40</sup> In those States where a State board, department, or agency exists which is charged with the administration of State laws for vocational rehabilitation of physically handicapped persons, such plans shall include provision for cooperation between such board, department, or agency and the agency designated to cooperate with the United States Employment Service under this Act. If such plans are in conformity with the provisions of this Act and reasonably appropriate and adequate to carry out its purposes, they shall be approved by the Secretary and due notice of such approval shall be given to the State agency.

#### REPORTS BY STATE AGENCIES

SEC. 9. Each State agency cooperating with the United States Employment Service under this Act shall make such reports concerning its operations and expenditures as shall be prescribed by the Secretary of Labor. It shall be the duty of the Secretary to ascertain whether the system of public employment offices maintained in each State is conducted in accordance with the rules and regulations and the standards of efficiency prescribed by the Secretary in accordance with the provisions of this Act. The Secretary may revoke any existing certificates or withhold any further certificate provided for in section 7, whenever he shall determine, as to any State, that the cooperating State agency has not properly expended the moneys paid to it or the moneys herein required to be appropriated by such State, in accordance with plans approved under this Act. Before any such certificate shall be revoked or withheld from any State, the

<sup>37</sup> See footnote 36.

<sup>38</sup> Sec. 5 amended by Public Law 775, *supra*, to eliminate the requirement that the States match Federal grants, and to add the requirement that as a condition to granting funds to a State, the Secretary of Labor must find that the State is in compliance with the provisions of the Act of June 6, 1933, as amended, has an unemployment compensation law approved by him under the Federal Unemployment Tax Act, and is in compliance with sec. 303 of the Social Security Act, as amended.

<sup>39</sup> Secs. 6 and 7 were deleted by Public Law 775, *supra*.

<sup>40</sup> The second sentence of sec. 8 was inserted by Public Law 565, 83d Cong., 2d sess.

Secretary shall give notice in writing to the State agency stating specifically wherein the State has failed to comply with such plans.

**FEDERAL ADVISORY COUNCIL; STATE ADVISORY COUNCILS; NOTICE OF STRIKES AND LOCKOUTS TO APPLICANTS**

SEC. 11.<sup>41</sup> (a) The Secretary of Labor shall establish a Federal Advisory Council composed of men and women representing employers and employees in equal numbers and the public for the purpose of formulating policies and discussing problems relating to employment and insuring impartiality, neutrality, and freedom from political influence in the solution of such problems. Members of such council shall be selected from time to time in such manner as the Secretary shall prescribe and shall serve without compensation, but when attending meetings of the council they shall be allowed necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law for civilian employees in the executive branch of the Government. The council shall have access to all files and records of the United States Employment Service. The Secretary shall also require the organization of similar State advisory councils composed of men and women representing employers and employees in equal numbers and the public.<sup>42</sup>

(b) In carrying out the provisions of this Act, the Secretary is authorized and directed to provide for the giving of notice of strikes or lock-outs to applicants before they are referred to employment.

**RULES AND REGULATIONS**

SEC. 12. The Secretary of Labor is authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

**MAIL FRANKING PRIVILEGES TO EMPLOYMENT SYSTEMS**

SEC. 13. The Postmaster General is hereby authorized and directed to extend to the United States Employment Service and to the system of employment offices operated by it in conformity with the provisions of this Act, and to all State employment systems which receive funds appropriated under authority of this Act, the privilege of free transmission of official mail matter.<sup>43</sup>

<sup>41</sup> Sec. 10, containing authority to expend funds in States with inadequate State systems, has been omitted because the temporary period during which such authority was given has ended.

<sup>42</sup> Sec. 11 (a), amended by sec. 3 of the President's Reorganization Plan No. 2 of 1949, conferred on the Federal Advisory Council the responsibility for advising the Secretary of Labor and the Director of the Bureau of Employment Security with respect to both unemployment insurance and employment service problems:

"SEC. 3. FEDERAL ADVISORY COUNCIL.—The Federal Advisory Council established pursuant to section 11 (a) of the Act of June 6, 1933 (48 Stat. 116, as amended, 29 U. S. C. 49j (a)), is hereby transferred to the Department of Labor and shall, in addition to its duties under the aforesaid Act, advise the Secretary of Labor and the Director of the Bureau of Employment Security with respect to the administration and coordination of the functions transferred by the provisions of this organization plan."

<sup>43</sup> In the Federal Security Agency Appropriation Act, 1950 (title II of the Labor-Federal Security Appropriation Act, 1950, approved June 29, 1949), under the heading "Social Security Administration, Grants to States for unemployment compensation and employment service administration," the following paragraph appears:

"In carrying out the provisions of said Act of June 6, 1933, the provisions of section 303 (a) (1) of the Social Security Act, as amended, relating to the establishment and maintenance of personnel standards on a merit basis, shall apply."

## TEMPORARY UNEMPLOYMENT COMPENSATION ACT OF 1958 (72 STAT. 171) <sup>44</sup>

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## TITLE I—INDIVIDUALS WHO HAVE EXHAUSTED THEIR RIGHTS

### Payment of Compensation

#### Eligibility

SEC. 101. (a) (1) Payment of temporary unemployment compensation under this Act shall be made, for any week of unemployment which begins on or after the fifteenth day after the date of the enactment of this Act and before April 1, 1959, to individuals who have, after June 30, 1957 (or after such later date as may be specified pursuant to section 102 (b)), exhausted (within the meaning prescribed by the Secretary by regulations) all rights under the unemployment compensation laws referred to in paragraph (3) and who have no rights to unemployment compensation with respect to such week under any such law or under any other Federal or State unemployment compensation law.

(2) Except as provided in section 103, payment of temporary unemployment compensation under this Act shall be made only pur-

<sup>44</sup> This Act was compiled by the United States Department of Labor. It was enacted by P. L. 85-441, approved June 4, 1958.



suant to an agreement entered into under section 102 and only for weeks of unemployment beginning after the date on which the agreement is entered into.

(3) The unemployment compensation laws referred to in this paragraph are:

(A) Any unemployment compensation law of a State.

(B) Title XV of the Social Security Act, as amended (42 U. S. C. 1361 et seq.).

(C) Title IV of the Veterans' Readjustment Assistance Act of 1952, as amended (38 U. S. C. 991 et seq.).<sup>45</sup>

#### Maximum Aggregate Amount Payable

(b) The maximum aggregate amount of temporary unemployment compensation payable to any individual under this Act shall be an amount equal to 50 per centum of the total amount (including allowances for dependents, but excluding any temporary additional unemployment benefits) which was payable to him, under the unemployment compensation law or laws referred to in subsection (a) (3) under which he last exhausted his rights before making his first claim under this Act, for the benefit year with respect to which this last exhaustion occurred: *Provided, however,* That the amount so payable shall be reduced by the amount of any temporary additional unemployment compensation payable to him under the unemployment compensation law of any State. The term "benefit year" means the benefit year as defined in the applicable State unemployment compensation law; except that, if such law does not define a benefit year, then such term means the period prescribed by the Secretary.

#### Weekly Benefit Amount

(c) The temporary unemployment compensation payable to an individual under this Act for a week of total unemployment shall be the weekly benefit amount (including allowances for dependents) for total unemployment which was payable to him pursuant to the unemployment compensation law or laws referred to in subsection (a) (3) under which he most recently exhausted his rights. The temporary unemployment compensation payable to an individual under this Act for a week of less than total unemployment shall be computed on the basis of such weekly benefit amount.

#### Application of State Laws

(d) Except where inconsistent with the provisions of this title, the terms and conditions of the unemployment compensation law or laws referred to in subsection (a) (3) under which an individual most recently exhausted his rights shall be applicable to his claims for temporary unemployment compensation under this Act and to the payment thereof.

#### Agreements With States

##### In General

SEC. 102. (a) The Secretary is authorized on behalf of the United States to enter into an agreement with a State, or with the agency

<sup>45</sup> Now in title 38, United States Code, see p. 362.

administering the unemployment compensation law of such State, under which such State agency—

(1) will make, as agent of the United States, payments of temporary unemployment compensation to the individuals referred to in section 101 on the basis provided in this Act; and

(2) will otherwise cooperate with the Secretary and with other State agencies in making payments of temporary unemployment compensation under this Act.

**State May Select Later Date for Exhaustions Under State Law Which Qualify Under This Act**

(b) If the State so requests, the agreement entered into under this section shall specify, in lieu of June 30, 1957, such later date as the State may request. In any such case, an exhaustion under the unemployment compensation law of such State shall not be taken into account for the purposes of this Act unless it occurred after such later date.

**Amendment, Suspension, or Termination of Agreement**

(c) Each agreement under this Act shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

**No Denial or Reduction of State Benefits**

(d) Any agreement under this Act shall provide that unemployment compensation otherwise payable to any individual under the State's unemployment compensation law will not be denied or reduced for any week by reason of any right to temporary unemployment compensation under this Act. This subsection shall not apply to a State law which temporarily extended the duration of unemployment compensation benefits, if such State law provides for its expiration by reason of the enactment of this Act.

**Veterans and Federal Employees**

**In States Which Do Not Have Agreements, and So Forth**

SEC. 103. (a) For the purpose of paying the temporary unemployment compensation provided in this Act to individuals—

(1) who have, after June 30, 1957, exhausted their rights to unemployment compensation under title XV of the Social Security Act or title IV of the Veterans' Readjustment Assistance Act of 1952,<sup>46</sup> and

(2) in a State, if there is no agreement entered into under section 102 which applies with respect to the weeks of unemployment concerned,

the Secretary is authorized to extend any existing agreement with such State. Any such extension shall apply only to weeks of unemployment beginning after such extension is made. For the purposes of this Act, any such extension shall be treated as an agreement entered into under this Act.

<sup>46</sup> See footnote 45.

### In Puerto Rico and the Virgin Islands

(b) For the purpose of paying the temporary unemployment compensation provided in this Act to individuals—

(1) who have, after June 30, 1957, exhausted their rights to unemployment compensation under title XV of the Social Security Act or title IV of the Veterans' Readjustment Assistance Act of 1952,<sup>47</sup> and

(2) in Puerto Rico or the Virgin Islands, the Secretary is authorized to utilize the personnel and facilities of the agencies in Puerto Rico and the Virgin Islands cooperating with the United States Employment Service under the Act of June 6, 1933 (29 U. S. C. 49 et seq.), and may delegate to officials of such agencies any authority granted to him by this Act whenever the Secretary determines such delegation to be necessary in carrying out the purposes of this Act; and may allocate or transfer funds or otherwise pay or reimburse such agencies for the total cost of the temporary unemployment compensation paid under this Act and for expenses incurred in carrying out the purposes of this Act.

### Review

(c) Any individual referred to in subsection (b) whose claim for temporary unemployment compensation under this Act has been denied shall be entitled to a fair hearing and review as provided in section 1503 (c) of the Social Security Act (42 U. S. C. 1363 (c)).

### Repayment

#### In General

SEC. 104. (a) The total credits allowed under section 3302 (c) of the Federal Unemployment Tax Act (26 U. S. C. 3302 (c)) to taxpayers with respect to wages attributable to a State for the taxable year beginning on January 1, 1963, and for each taxable year thereafter, shall be reduced in the same manner as that provided by section 3302 (c) (2) of the Federal Unemployment Tax Act for the repayment of advances made under title XII of the Social Security Act, as amended (42 U. S. C. 1321 et seq.), unless or until the Secretary of the Treasury finds that by December 1 of the taxable year there have been restored to the Treasury the amounts of temporary unemployment compensation paid in the State under this Act (except amounts paid to individuals who exhausted their unemployment compensation under title XV of the Social Security Act and title IV of the Veterans' Readjustment Assistance Act of 1952<sup>48</sup> prior to their making their first claims under this Act<sup>49</sup>), the amount of costs incurred in the administration of this Act with respect to the State, and the amount estimated by the Secretary of Labor as the State's proportionate share of other costs incurred in the administration of this Act.

#### Repayments in Excess of Amount Owed

(b) Whenever the amount of additional tax paid, received, and covered into the Treasury under subsection (a) with respect to wages which are attributable to a State exceeds the sum of the amounts

<sup>47</sup> See footnote 45.

<sup>48</sup> See footnote 45.

<sup>49</sup> The administrative costs of paying temporary unemployment compensation to exhausted under these Federal laws is also excepted from the sums restorable under sec. 104 (a) by P. L. 85-457, approved June 13, 1958.

described in subsection (a), there is hereby appropriated to the Unemployment Trust Fund for crediting to the account of such State an amount equal to such excess. The amount so credited shall be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

## TITLE II—GENERAL PROVISIONS

### Definitions

SEC. 201. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Labor.

(2) The term "State" includes the District of Columbia, Alaska, and Hawaii.

(3) The term "first claim" means the first request for determination of benefit status under this Act on the basis of which a weekly benefit amount under this Act is established, without regard to whether or not any benefits are paid.

### Review

SEC. 202. Any determination by a State agency with respect to entitlement to temporary unemployment compensation pursuant to an agreement under this Act shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

### Penalties

#### False Statements, and So Forth

SEC. 203. (a) Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment under this Act shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

#### Recovery of Overpayments

(b) (1) If a State agency or the Secretary, as the case may be, or a court of competent jurisdiction, finds that any person—

(A) has made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed, or caused another to fail, to disclose a material fact, and

(B) as a result of such action has received any payment under this Act to which he was not entitled, such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be. In lieu of requiring the repayment of any amount under this paragraph, the State agency or the Secretary, as the case may be, may recover such amount by deductions from any compensation payable to such person under this Act. Any such finding by a State agency or the Secretary, as the case may be, may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 103 (c) and 202 of this Act.

(2) Any amount repaid to a State agency under paragraph (1) shall be deposited into the fund from which payment was made. Any amount repaid to the Secretary under paragraph (1) shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which payment was made.

### Information

SEC. 204. The agency administering the unemployment compensation law of any State shall furnish to the Secretary (on a reimbursable basis) such information as he may find necessary or appropriate in carrying out the provisions of this Act.

### Payments to States

#### Payment on Calendar Month Basis

SEC. 205. (a) There shall be paid to each State which has an agreement under this Act, either in advance or by way of reimbursement, as may be determined by the Secretary, such sum as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

#### Certification

(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment—

(1) to each State which has an agreement under this Act sums payable to such State under subsection (a), and

(2) to each State such amounts as the Secretary determines to be necessary for the proper and efficient administration of this Act in such State.

The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds appropriated for carrying out the purposes of this Act.

#### Money To Be Used Only for Purposes for Which Paid

(c) All money paid a State under this Act shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this Act, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this Act may be made.

#### Surety Bonds

(d) An agreement under this Act may require any officer or employee of the State certifying payments or disbursing funds pursuant

to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this Act.

#### **Liability of Certifying Officers**

(e) No person designated pursuant to an agreement under this Act as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this Act.

#### **Liability of Disbursing Officers**

(f) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this Act if it was based upon a voucher signed by a certifying officer designated as provided in subsection (e) of this section.

#### **Denial of Benefits to Aliens Employed by Communist Governments or Organizations**

SEC. 206. No person who is an alien shall be entitled to any benefit under this Act for any week of unemployment if, at any time on or after the first day of his applicable base period and before the beginning of such week, he was at any time employed by—

(1) a foreign government which, at the time of such employment, was Communist or under Communist control, or any agency or instrumentality of any such foreign government, or

(2) any organization if, at the time of such employment (A) such organization was registered under section 7 of the Subversive Activities Control Act of 1950 (50 U. S. C. 786), or (B) there was in effect a final order of the Subversive Activities Control Board requiring such organization to register under section 7 of such Act or determining that it is a Communist-infiltrated organization.

#### **Regulations**

SEC. 207. The Secretary is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

#### **Authorization of Appropriations**

SEC. 208. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act.

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